IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS **EASTERN DIVISION**

JOSE ANDREU,) Plaintiff,) v.	Case No. 07 C 6132
UNITED PARCEL SERVICE, INC.,	Judge Samuel Der-Yeghiayan
Defendant.	Magistrate Judge Mason

PLAINTIFF'S EXHIBITS IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Exhibit 1	UPS's Amended Rule 26(a)(1) Disclosures
Exhibit 2	Local 705-UPS Collective Bargaining Agreement Excerpts
Exhibit 3	Cheryl Bast Deposition Excerpts
Exhibit 4	Dave Ziltz Deposition Excerpts
	Deposition Exhibit 2, Ziltz 2005 Quality Performance Review
Exhibit 5	Jose Andreu Deposition Excerpts
Exhibit 6	Kerry Snyder Deposition Excerpts
	Deposition Exhibit 3, Stevens' Grievance
	Deposition Exhibit 5, Snyder 03/24/05 Memo
	Deposition Exhibit 9, Snyder 02/02/06 E-Mail
	Deposition Exhibit 10, Snyder 2005 Quality Performance Review
Exhibit 7	Jose Andreu's Answers to UPS First Interrogatories
Exhibit 8	Jose Andreu Declaration

Exhibit 9	Jose Andreu UPS Personnel File, UPS 0001 - 0041
Exhibit 10	Jose Andreu UPS Payroll History Report, UPS 0674 - 0705
Exhibit 11	Jill Schmidt Deposition Excerpts
Exhibit 12	UPS's Answer and Affirmative Defense to Complaint
Exhibit 13	Turner Pain Center Documents, P000241-47.
Exhibit 14	Jose Andreu's Supplemental Response to UPS First Interrogatories
Exhibit 15	Melissa Del Dotto Deposition Excerpts
Exhibit 16	UPS Objections and Answers to Plaintiff's First Set of Interrogatories
Exhibit 17	UPS Supplemental Interrogatory Answers
Exhibit 18	Randall Dunn Deposition Excerpts
	Deposition Exhibit 7, Stevens' Grievance

Exhibit 19 Kenneth Emanuelson Declaration

Exhibit 1, Jose Andreu Grievance

Exhibit 2, Hiram Guyton Grievance

Exhibit 3, Anthony Blackman Grievance

Exhibit 20 UPS Objections and Answers to Plaintiff's Second Set of Interrogatories

Date: January 28, 2008

Respectfully Submitted, Plaintiff, JOSE ANDREU,

By:: /s/ Timothy J. Coffey
Timothy J. Coffey
THE COFFEY LAW OFFICE, P.C.
Attorneys for JOSE ANDREU
1403 E. Forest Avenue
Wheaton, IL 60187
(630) 534-6300

Exhibit 1

UPS's Amended Rule 26(a)(1) Disclosures

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

Document 38

JOSE ANDREU,)
Plaintiff,))
V.) Case No. 07 C 0473
UNITED PARCEL SERVICE, INC.,) Judge Der-Yeghiayan
Defendant.))

DEFENDANT UNITED PARCEL SERVICE'S AMENDED DISCLOSURES PURSUANT TO RULE 26(a)(1)

Defendant United Parcel Service ("UPS") submits its mandatory disclosures pursuant to Fed. R. Civ. P. 26(a)(1) as follows:

Initial Disclosures. Except to the extent otherwise stipulated or directed by order or local rule, a party shall, without awaiting a discovery request, provide to the other parties:

(A) the name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information:

RESPONSE: Jimmy Millard

United Parcel Service 150 South Lombard Road Addison, IL 60101-3020

Has information regarding UPS's policies and procedures.

Tom Haefke United Parcel Service 150 South Lombard Road Addison, IL 60101-3020

Has information regarding UPS's policies and procedures.

Marilyn Ritchie United Parcel Service 150 South Lombard Road Addison, IL 60101-3020

Has information regarding UPS's policies and procedures.

Randy Dunn United Parcel Service 150 South Lombard Road Addison, IL 60101-3020

Has information concerning Andreu's termination.

David Ziltz United Parcel Service 150 South Lombard Road Addison, IL 60101-3020

Has information concerning Andreu's termination.

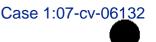
James Karr United Parcel Service 55 Glenlake Parkway, NE Atlanta, GA 30328

Has information concerning Andreu's COBRA notification.

Kerry Snyder United Parcel Service 1800 East 1st Avenue Milan, IL 61264

Has information concerning Andreu's termination.

- (B) a copy of, or a description by category and location of all documents, data compilations, and tangible things in the possession, custody or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment;
 - **RESPONSE:** See documents Bates-stamped UPS 0042-UPS 00128 produced by UPS (documents Bates-stamped UPS 0001-UPS 0041 were previously produced).
- (C) a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which





such computation is based, including materials bearing on the nature and extent of injuries suffered;

RESPONSE: Not applicable.

for inspection and copying as under Rule 34 any insurance agreement under (D) which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

RESPONSE: Not applicable.

DATED: June 19, 2007

UNITED PARCEL SERVICE

D. Scott Watson, #06230488 Ellen M. Girard, #6276507 Quarles & Brady LLP 500 West Madison Street, Suite 3700 Chicago, IL 60661-2511 (312) 715-5000

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that he caused a copy of the foregoing United Parcel Service's Amended Disclosures Pursuant to Fed.R.Civ.P. 26(a)(1) to be served upon:

> Timothy J. Coffey The Coffey Law Office, P.C. 1403 East Forest Avenue Wheaton, Illinois 60187 tcofflaw@sbcglobal.net

by depositing a copy of same in the U.S. Mail chute at 500 W. Madison Street, Chicago, Illinois, before the hour of 4:00 p.m. this 19th day of June, 2007.

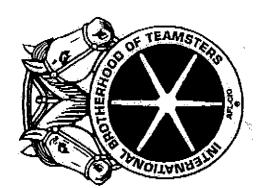
Filed 01/31/2<u>00</u>8

Exhibit 2

Local 705-UPS Collective Bargaining Agreement Excerpts

Filed 01/31/2008

TEAMSTER LOCAL 705 JNITED PARCEL SERVICE AGREEMENT



- 2. Trainers shall be paid a \$.50 per hour training premium for each hour spent training.
- Drivers training helpers, in accordance with Supplemental Agreements, and two (2) on the car rides for the purpose of route knowledge shall not be entitled to the training premium.
- 3. The parties shall establish a National Training Committee. The Committee shall be empowered to hear and resolve any disputes that may arise over these issues. Unresolved disputes will be subject to the National Master Grievance Committee.
- 4. Each Supplemental area shall meet and agree or continue existing agreements on the details of the application of this agreement in their area in accordance with Supplemental language. Other issues left for resolution at this level include, but are not limited to, the minimum qualifications for at this level include, but are not limited to, the minimum qualifications for trainers, if any, the number of hours to be worked by the trainer, and the trainers, if any, the number of hours to be worked by the trainer, and the application of Supplemental language concerning compensation for work performed in higher classifications. Disputes shall be resolved in accordance with paragraph 3.
- 5. Trainer selection and assignments to on the job training will be done in accordance with supplemental seniority provisions, providing the trainers have the necessary qualifications and skills for the job.
- 6. The training records that a Teamster represented trainer can be required to complete for drivers, are those previously agreed to by the parties. If the Employer wishes to amend these forms, it will first meet and agree with the National Training Committee. Such agreement will not be unreasonably withheld. No training record or verbal report by the trainer will be relied upon to discipline any employee or to evaluate any seniority employee's performance.
- 7. If a trainer is removed from the qualified list by the Employer, that employee and the Local Union shall have access to the grievance procedure. If the Union establishes that the removal was not for just cause, the grievant shall be reinstated.
- No trainer shall be required to train in any method which violates the Collective Bargaining Agreement.
- Teamster represented trainers will not be permitted to perform or recommend disciplinary action.
- 10. Teamster represented trainers will not be required to make decisions or recommendations regarding the attainment of seniority, by their trainees. The decision as to whether a trainee attains seniority will be made solely by UPS management.

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- 11. Employees to be retrained, after qualifying in their classification, and seniority employees scheduled for safety rides, may request that a non-bargaining unit employee perform that training, in fieu of a Teamster represented trainer. Such requests will be honored.
- 12. Trainers will not be held liable for auto accidents incurred by the trainee.

ARTICLE 7. LOCAL AND AREA GRIEVANCE MACHINERY

Except in cases involving cardinal infractions, as outlined in Article 54 of this Agreement, an employee to be discharged or suspended shall be allowed to remain on the job, without loss of pay unless and until the discharge or suspension is sustained under the grievance procedure. The Union agrees it will not unreasonably delay the processing of such cases.

Section 1.

Differences between the Employer and the Union as to the application or interpretation of any of the provisions of this Agreement, including the question of whether an employee has been disciplined or discharged for just cause, shall be settled by the following grievance and arbitration procedure.

- a) The Employee shall discuss any issues or complaints with a supervisor.
- b) The Union Steward or Business Agent shall discuss any issues or complaints with the appropriate supervisor or manager.
- If the Employee's issue or complaint is not resolved in step 1(a), the Employee shall discuss the issue or complaint with his/her steward and the appropriate supervisor or manager.
- 3. If the parties fail to agree on the dispute or issue the steward shall promptly submit a written grievance to the Employer with a copy to the Business Agent within thirty (30) calendar days of the occurrence or knowledge of the occurrence. Grievances relating solely to discharge or discipline shall be filed within fifteen (15) calendar days of the notice of discipline.
- Failure to follow the above procedure may result in the dismissal of the grievance.
- 5. Unresolved grievances may be submitted to the 705/UPS Grievance Committee. The 705/UPS Grievance Committee shall consist of an equal number of members selected by the Employer and the Union.
- Failure to achieve a resolution resulting in a deadlock at the 705/UPS Grievance Committee may result in the grievance being submitted to arbitration by the Union.

Any required togbooks.

The Employer or its agent must maintain for five years records pertaining to the calibration of each EBT used in alcohol testing, including records of the results of external calibration checks.

Section 4.16 Release of Alcohol Testing information

The Breath Alcohol Technician (BAT) shall inform the employee before testing that the Employer will be notified if the confirmatory test is greater than 0.02, since the employee will be removed from service and considered medically unqualified to drive under DOT agency rules and regulations.

the end of the following business day after receiving the documents from the laboratory or the MRO, as applicable, provided that the employee has executed written consent authorizing release to the Union, a copy of which When a grievance is filled as a result of a positive test the Employer shall obtain records relating to the alcohol test. Upon receiving the records, the Employer shall provide copies to the appropriate official of the Union, by must be provided to the Employer.

Section 4.17 Paid For Time.

Testing - the employee will be paid their regular straight time hourly rate of pay in the following manner:

- For all time at the testing site.
- 2. (a) if the testing site is reasonably on route between the employee's home and the center, and the employee is going to or from work, pay for travel time one way between the center and the testing site or the testing site to the center; or
- if the testing site is not reasonably enroute between the employee's home (b) For travel time both ways between the center and the testing site only and the employee's center.

time during the employee's shift, and the shift ends after eight (8) hours, the employee shall be paid time and one-half for all time past the eight (8) When an employee is on the clock and a random alcohol test is taken any

Provisions in Supplements, Riders and Addenda that are superior shall

ARTICLE 36. NON-DISCRIMENATION

origin, handicap, veteran status or age in violation of any federal or state The Employer and the Union agree not to discriminate against any individual with respect to hiring, compensation, terms or conditions of employment because of such individual's race, color, religion, sex, national

aw, or engage in any other discriminatory acts prohibited by law, nor will they limit, segregate or classify employees in any way to deprive any individual employees of employment opportunities because of race, color, religion, sex, national origin, handicap, veteran status or age in vlotation of federal or state law, or engage in any other discriminatory acts prohibited by law. This Article also covers employees with a qualified disability under the Americans with Disabilities Act.

ARTICLE 37. MANAGEMENT-EMPLOYEE RELATIONS

Section 1.

 a) The parties agree that the principle of a fair day's work for a fair day's pay shall be observed at all times and employees shall perform their duties in a manner that best represents the Employer's interest. The Employer shall not in any way intimidate, harass, coerce or overly supervise any be limited to, giving due consideration to the age and physical condition of the employee. Employees will also treat each other as well as the Employer employee in the performance of his or her duties. The Employer will treat employees with dignity and respect at all times, which shall include, but not with dignity and respect.

No employee shall be disciplined for exceeding personal time based on data received from the DIAD / IVIS or other information technology.

- such package car driver will complete his/her assignment and subject to the b) It is the policy of the Employer to cooperate with a package car driver who desires to be relieved of overtime, subject to the understanding that provisions below. Any package car driver who desires to be relieved from least twenty-four (24) hours in advance. The Center Manager and the Steward shall process such requests based on seniority. The Employer overtime on a particular day or days shall submit a request in writing at shalf allow a minimum of ten percent (10%) of the package car drivers worked in any center off on a daily basis. No package car driver will be granted more than two (2) requests per month. It is understood that to accomplish the above the Employer may need to provide an earlier start ifine. It is further understood that the Employer is not obligated to let more than one (1) driver in a loop off at one time. Such requests shall not be submitted during the months of November and December.
- drivers' workdays below 9.5 hours per day where requested. If a review indicates that progress is not being made in the reduction of assigned hours of work, the following language shall apply, except in the months of c) The Employer shall make a reasonable effort to reduce Package car November and December:

under any excessive overtime provision of a Supplement, Rider or Addendum) cannot be resolved at the local level, the Union may docket the Orivers shall have the right to file a grievance if the Employer has continually worked a driver more than 9.5 hours per day for any three (3) days in a workweek. If a grievance under this provision (or a Grievance

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vacations from December 26th through the week ending Friday, the day after Thanksgiving. The employee shall be ready to pick when asked, at the rate of 25% per week in seniority order. If not ready, the employee will be passed over and pick what is available when ready.

- c. With the exception of Delivery Information Employees where the prohibition is in effect from the third (3rd) Monday in January to the third (3rd) Monday in March.
- d. Any employee who is eligible for a full vacation, and who resigns or whose services are terminated due to circumstances over which he/she has no control, shall receive pay for the number of weeks vacation as set forth in subsection. (b) for his/her then completed years of service. Any such regular full time employee, with more than one (1) year of service who resigns or whose services are terminated due to circumstances over which he/she has no control shall receive prorated pay for the number of weeks vacation as set forth in this Article for his/her then completed years of service.

Prorated pay shall be computed on a percentage basis by dividing the number of straight time hours worked into 1,250 as illustrated below:

25% of full vacation 50% of full vacation 75% of full vacation 100% of full vacation	312 hours 625 hours 937 hours 1,250 hours
50% of full vacation	Z5 hours
25% of full vacation	572 hours
20% of full vacation	250 hours
10% of full vacation	125 hours

Any full time employee who displaces a part time employee shall have those hours counted towards his/her hours worked for a full time vacation.

- If a holiday falls during an employee's vacation, he/she shall indicate at the time of selecting said week which of the following options he/she wishes:
- 1) Take eight (8) hours pay in lieu of the holiday to be paid with the vacation.
- The Friday prior to starting vacation off as the paid holiday, or the last scheduled work day for those employees on an atternate work week schedule, as defined in Article 46, Section 1 (b).
- 3) The Monday following vacation off as the paid holiday, or the first scheduled work day for those employees on an atternate work week schedule, as defined in Article 46, Section 1 (b).
- 4) Hold the paid holiday and use as an additional optional holiday. Note: The Friday before and the Monday after a week with a holiday in it will be restricted to only one person each day and assigned to those tooking to

exercise that option by seniority. The locking in of these two (2) days supersedes any option request days.

Unused option days will be paid in full the first week of December each year. The Employer will schedule fifteen percent (15%) of the Employees by classification off on vacation from the Monday after Easter, up to and including the week in which Labor Day falls and a minimum of five percent (5%) off the remaining months. Optional weeks are not to be differentiated from regular vacation weeks in selection.

Section 2. Vacation Pay

On the payday immediately preceding an employee's vacation he/she shall be entitled to vacation pay computed on the basis of fifty (50) hours per week at the current year's hourly rate.

ARTICLE 53. SPECIAL VACATIONS

In fleu of three (3) days sick leave, Day after Thanksgiving holiday and employee's holiday set forth in Article 5 of 1976-1979 contract, plus an additional sick day in 1979, employees will receive fifty (50) hours of vacation pay. (To be eligible, employees must have acquired seniority and be on the payrolf by May 1st of any year. Part time employees receive twenty-five [25] hours.)

The option week of vacation is not subject to the pro-rata provision of Article 52. An employee must be actively on the payroll at the time this week is scheduled and taken.

Special vacation week consisting of fifty (50) hours can be picked at the same time the vacation is picked or at any time during the year. If the special vacation is not taken by the end of vacation period, fifty (50) straight time hours will be paid. (Part time employees receive twenty-five [25] hours.)

Employees (full time or part time) may take pay in lieu of time off for optional week. Employees must indicate preference at time of vacation selection.

ARTICLE 54, DISCHARGE AND SUSPENSION

The Employer shall not discharge or suspend any employee without just cause. No employee shall be suspended or discharged without first being verbally warned and the warning being documented, except for the following offenses:

- (a) Dishonesty
- (b) Drinking of or under the influence of alcoholic beverages or narcotics during the workday;
- (c) Personal possession or the use of drugs, marijuana or L.S.D. during the work day:
- (d) Gross negligence resulting in a serious accident as defined in Article 18.
- (e) The carrying of unauthorized passengers while on the job;
- (f) Failure to report an accident;
- (g) A runaway accident;
- (h) Sexual harassment;
- (i) Fighting on the job.

The warning notice, as herein provided, shall have no force or effect for a period of more than nine (9) months from the date of said warning notice. Warning notices or file write-ups beyond the nine (9) month period set forth above, will not be considered in the grievance procedure.

ARTICLE 55. MISCELLANEOUS

Section 1.

The provisions of this Agreement shall apply to all accretions to the bargaining unit including but not limited to newly established or acquired terminals, consolidations of terminals, etc.

operated subsidiaries which are not under centract with the Union. "Wholly independently operated" means, among other things, that there shall be no interchange of freight, equipment or personnel, or common use, in whole or This provision shall not apply to wholly-owned and wholly independently in part of equipment, terminals, property, personnel or state or ICC rights. The exception set forth above shall not apply to accretions to the collective bargaining unit.

Section 2, Incentive Plans-Bonus

the Employer shall not put into effect any new plan of an economic nature rate plans, etc.) without first checking with and securing the approval of the Union. There will be no newly implemented incentive plans unless approved by the affected employees and the Union. Current plans will affecting employees (such as incentive plans, sick leave schedules,

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remain in effect unless the Union decides to terminate the plan after voting the employees in the affected Center.

Section 3. Employees Not Required to Buy or Lease Equipment.

The Employer shall not require, as a condition of continued employment, that an employee shall purchase any truck, tractor-trailer or vehicular equipment, or that an employee purchase or acquire any proprietary or other interest or obligation in the business.

Section 4.

Green checks will be in envelopes.

Section 5.

All temporary personnel will wear their company identifying badges while on company property.

Section 6.

Prior to any Change of Operation in Local 705 jurisdiction, the Company and the Union will meet to resolve all issues.

Section 7.

Once an Employee's Social Security number is on file with the Employer, the employee will only be required to write his/her last four (4) digits of the Social Security number on sign in sheets at the Employer's guard shack.

Section 8.

will unreasonably deny a grievance being sent to the National Committee It is understood that all unsettled grievances and/ or issues will be heard at the UPS/705 Panel before it is referred to any other party. Nelther party and/or local arbitration, after review by the Co-Chairs.

Section 9. Local 705 / UPS Chicago Districts Mission Statement

Notwithstanding any contractual provision elsewhere in this Agreement, in an effort to further develop and increase volume and customer confidence in the Local 705 / UPS Districts operating areas, it is understood Teamsters Local 705, it's Agents, and members may take a pro-active role in supporting and promoting participation in any and all company initiated volume development activities.

UPS 0109

Exhibit 3

Cheryl Bast Deposition Excerpts

Page 1

IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

JOSE ANDREU,)				
Plaintiff,))				
-Vs-)	No.	07	С	0473
UNITED PARCEL SERVICE, INC.,	<i>)</i>				
Defendant	<i>)</i> }				

The deposition of CHERYL BAST, called by the Plaintiff, for examination, taken pursuant to notice and pursuant to the Federal Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Tamara Manganiello, Registered Professional Reporter and Notary Public, at Suite 850, 29 South LaSalle Street, Chicago, Illinois, on the 26th day of July, A.D., 2007, commencing at 8:41 a.m.

Case 1:07-cv-06132

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1	APPEARANCES:		
1 2	THE COFFEY LAW OFFICE, P.C.,	1	· · · · · · · · · · · · · · · · · · ·
-	1403 East Forest Avenue	2	WHEREUPON:
3	Wheaton, Illinois 60187	3	CHERYL BAST
-	(630) 462-3901	4	called as a witness herein, having been first duly
4	BY: MR. TIMOTHY J. COFFEY,	5	owied as a witness netern, having been first duty
5	Appeared on behalf of the Plaintiff;	I -	sworn, was examined and testified as follows:
6	QUARLES & BRADY, L.L.P., 500 West Madison Street	6	DIRECT EXAMINATION
7	Suite 3700	7	By Mr. Coffey
	Chicago, Illinois 60661	8	Q. Could you please state and spell your
8	(312) 715-5149	⊥ 9	full name, please?
	BY: MR. D. SCOTT WATSON,	10	A. Cheryl, C-H-E-R-Y-L, Leigh, L-E-I-G-H,
9		11	Bast, B-A-S-T.
10	Appeared on behalf of the Defendant.	12	·
10	ALSO PRESENT:		Q. Ms. Bast, my name is Tim Coffey. I'm
111	TEST / RESERVE	13	an attorney for Mr. Jose Andreu. And he has filed a
	MR. JOSE ANDREU	14	lawsuit against UPS. We're here to take your
12		15	deposition today. Do you understand that?
13		16	A. Yes.
14 15		17	Q. Okay. Have you ever given your
16		18	
17		í	deposition before?
18		19	A No.
19		20	Q All right. I'm going to ask a series
20 21		21	of questions and you're sworn under oath to give me
22		22	honest answers. And Tamara here is going to take
23		23	down all of my questions and all of your answers.
24		24	Okay?
	Page 2		•
	,	<u> </u>	Page 4
1	INDEX	1	A. Uh-huh.
2	THE WITNESS: CHERYL BAST	2	Q. So your answers have to be, to the
	PAGES	3	
3			extent you can remember this, verbal. So yes or no
	Direct Examination By Mr. Coffey 4	4	as opposed to uh-huhs and shakes of the head. Okay?
4	• • • • • • • • • • • • • • • • • • • •	5	A. Okay.
5		6	Q. All right. If there's ever a question
6	EXHIBITS	7	I ask that you don't understand, you're going to
7	PAGES	8	have to let me know. All right?
8	Bast Exhibit No. 1	9	A. Okay.
	Bast Exhibit No. 2 57	10	Q. And I'll restate it, rephrase it until
9	Bast Exhibit No. 358	11	
10			you understand it. All right?
11	·	12	A. Yes.
12		13	Q. Okay. If you don't do that, the
13		14	record is going to simply read my question, your
14		15	answer with no indication that you had any
15		16	misunderstanding, Okay?
16		17	A. Okay.
17		18	Q. If you need to take a break at any
18			
19		19	point in time, feel free to just let us know. All
20	i	20	right?
21		21	A. Sure.
22		22	Q. Have you ever given any sworn
23		23	testimony, testified in any kind of trial or any
24	i i	24	kind you said no depositions?
	Page 3		-
			Page 5

1	Α.	I don't know it offhand.	1	that time have pick-ups, as well. And I do remember
2	Q.	How about Coveny?	2	looking at the clock and it was about 4:10.
3	Ā.	I don't know it offhand.	3	Q. Other than we see as Exhibit No. 1,
4	Q.	Okay. Did you talk to, text,	4	did you make any notes of any of this, any of the
5	commun	icate to either of these drivers that day	5	times that we're going to be discussing here, any of
6	about ma	king this pick-up?	6	the times you've already discussed?
7	A.	No.	7	A. No. This is it.
8	Q.	Any reason why not?	8	Q. So you text messaged and Mr. Andreu
9	A.	Because after I talked to Jose, I	9	then calls back. And this is a telephone call?
10	called Da	ive and Dave said he doesn't have any	10	A. Yes.
11	pick-ups,	tell him he needs to go over there.	11	Q. And you get this at your office
12	Q.	Okay.	12	telephone?
13	A.	The other drivers have pick-ups.	13	A. Yes.
14	Q.	And this is Dave Ziltz?	14	Q. Where do you receive this at?
15	A.	Yes.	15	A. Yes. The office phone.
16	Q.	When you're talking to Dave well,	16	Q. What number is that office phone?
17	we'll get	into your conversation with Dave Ziltz a	17	A. There is multiple lines in there.
18	little bit :	=	18	Whatever line is free, it will just go to the next
19		So you say shortly before 4:00 you	19	line.
20	get notifi	ed that a pick-up needs to be made at	20	Q. If I wanted to call that number back
21	Bernina?		21	on February 9th, '05, what number would I dial?
22	A.	Yes.	22	A. Well, the drivers have an 800 number
23	Q.	Is that Bernina?	23	to call. I don't know if he called that 800 number,
24	Α.	Bernina, B-E-R-N-I-N-A.	24	which would, you know, still go into the office or
		Page 30		Page 32
1	Q.	Okay. How do you know shortly before	1	if he I don't know. I don't know what number he
2	4:00?		2	called. There's multiple lines.
3	4:00? A.	Because I remember I had talked to	2	called. There's multiple lines. Q. Are there more than two numbers that
2 3 4	4:00? A. Jose arou	Because I remember I had talked to and 4:00 o'clock, so I had to be notified	2 3 4	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called?
2 3 4 5	4:00? A. Jose arouthat the p	Because I remember I had talked to and 4:00 o'clock, so I had to be notified pick-up needed to be covered in order to	2 3 4 5	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh.
2 3 4 5 6	4:00? A. Jose arouthat the parend him	Because I remember I had talked to and 4:00 o'clock, so I had to be notified pick-up needed to be covered in order to a message.	2 3 4 5 6	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him.
2 3 4 5 6 7	A:00? A. Jose arouthat the psend him Q.	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this	2 3 4 5 6 7	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who?
2 3 4 5 6 7 8	4:00? A. Jose arou that the psend him Q. is when h	Because I remember I had talked to and 4:00 o'clock, so I had to be notified pick-up needed to be covered in order to a message. When you say you talked to Jose, this he calls you back?	2 3 4 5 6 7 8	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I
2 3 4 5 6 7 8 9	A:00? A. Jose arou that the psend him Q. is when l	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this he calls you back? Correct.	2 3 4 5 6 7 8	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I told him I need him to go to Bernina. He's like, I
2 3 4 5 6 7 8 9	A:00? A. Jose arouthat the psend him Q. is when l A. Q.	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this he calls you back? Correct. You say it's around 4:00 o'clock?	2 3 4 5 6 7 8 9	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I told him I need him to go to Bernina. He's like, I can't go to Bernina, I have too many stops left, I'm
2 3 4 5 6 7 8 9 10	4:00? A. Jose arou that the psend him Q. is when l A. Q. A.	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this he calls you back? Correct. You say it's around 4:00 o'clock? Yes.	2 3 4 5 6 7 8 9 10 11	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I told him I need him to go to Bernina. He's like, I can't go to Bernina, I have too many stops left, I'm not going to get done until about 9:00 o'clock
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2 3 4 5 6 7 8 9 10 11 12 13	A:00? A. Jose arouthat the psend him Q. is when l A. Q. A. Q. memory'	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this he calls you back? Correct. You say it's around 4:00 o'clock? Yes. What range are we looking at in your	2 3 4 5 6 7 8 9 10 11 12 13	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I told him I need him to go to Bernina. He's like, I can't go to Bernina, I have too many stops left, I'm not going to get done until about 9:00 o'clock tonight. And I said okay, well, you know, we really need help there, are you sure you can't go there?
2 3 4 5 6 7 8 9 10 11 12 13 14	A:00? A. Jose arou that the p send him Q. is when l A. Q. A. Q. memory' A.	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this he calls you back? Correct. You say it's around 4:00 o'clock? Yes. What range are we looking at in your Maybe five to 4:00, five after 4:00.	2 3 4 5 6 7 8 9 10 11 12 13 14	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I told him I need him to go to Bernina. He's like, I can't go to Bernina, I have too many stops left, I'm not going to get done until about 9:00 o'clock tonight. And I said okay, well, you know, we really need help there, are you sure you can't go there? No, I can't, I have too many stops. And I said
2 3 4 5 6 7 8 9 10 11 12 13 14 15	4:00? A. Jose arou that the psend him Q. is when l A. Q. A. Q. memory A. Between	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this he calls you back? Correct. You say it's around 4:00 o'clock? Yes. What range are we looking at in your? Maybe five to 4:00, five after 4:00. that time.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I told him I need him to go to Bernina. He's like, I can't go to Bernina, I have too many stops left, I'm not going to get done until about 9:00 o'clock tonight. And I said okay, well, you know, we really need help there, are you sure you can't go there? No, I can't, I have too many stops. And I said okay. And then at that point, you know, I tried to
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	4:00? A. Jose arouthat the psend him Q. is when l A. Q. A. Q. memory A. Between	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this he calls you back? Correct. You say it's around 4:00 o'clock? Yes. What range are we looking at in your? Maybe five to 4:00, five after 4:00. that time. So maybe 3:55 to 4:05?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I told him I need him to go to Bernina. He's like, I can't go to Bernina, I have too many stops left, I'm not going to get done until about 9:00 o'clock tonight. And I said okay, well, you know, we really need help there, are you sure you can't go there? No, I can't, I have too many stops. And I said okay. And then at that point, you know, I tried to think, well, who can go there now. And then —
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	4:00? A. Jose arouthat the psend him Q. is when l A. Q. A. Q. memory A. Between Q. A.	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this he calls you back? Correct. You say it's around 4:00 o'clock? Yes. What range are we looking at in your? Maybe five to 4:00, five after 4:00. that time. So maybe 3:55 to 4:05? Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I told him I need him to go to Bernina. He's like, I can't go to Bernina, I have too many stops left, I'm not going to get done until about 9:00 o'clock tonight. And I said okay, well, you know, we really need help there, are you sure you can't go there? No, I can't, I have too many stops. And I said okay. And then at that point, you know, I tried to think, well, who can go there now. And then — MR. WATSON: You were asked about the
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	4:00? A. Jose arouthat the psend him Q. is when I A. Q. A. Q. memory A. Between Q. A. Q.	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this ne calls you back? Correct. You say it's around 4:00 o'clock? Yes. What range are we looking at in your Maybe five to 4:00, five after 4:00. that time. So maybe 3:55 to 4:05? Yes. And how do you know that?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I told him I need him to go to Bernina. He's like, I can't go to Bernina, I have too many stops left, I'm not going to get done until about 9:00 o'clock tonight. And I said okay, well, you know, we really need help there, are you sure you can't go there? No, I can't, I have too many stops. And I said okay. And then at that point, you know, I tried to think, well, who can go there now. And then — MR. WATSON: You were asked about the conversation. Answer the question, please.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	4:00? A. Jose arouthat the psend him Q. is when l A. Q. A. Q. memory A. Between Q. A. Q.	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this he calls you back? Correct. You say it's around 4:00 o'clock? Yes. What range are we looking at in your? Maybe five to 4:00, five after 4:00. that time. So maybe 3:55 to 4:05? Yes. And how do you know that? Because that's what time it was. Did you write this —	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I told him I need him to go to Bernina. He's like, I can't go to Bernina, I have too many stops left, I'm not going to get done until about 9:00 o'clock tonight. And I said okay, well, you know, we really need help there, are you sure you can't go there? No, I can't, I have too many stops. And I said okay. And then at that point, you know, I tried to think, well, who can go there now. And then — MR. WATSON: You were asked about the conversation. Answer the question, please. BY MR. COFFEY: Q. Anything else said in the conversation
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	4:00? A. Jose arouthat the presend him Q. is when I A. Q. Memory A. Between Q. A. Q. A. Q. A. Q. A. Q. A. Iooking a	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this he calls you back? Correct. You say it's around 4:00 o'clock? Yes. What range are we looking at in your? Maybe five to 4:00, five after 4:00. that time. So maybe 3:55 to 4:05? Yes. And how do you know that? Because that's what time it was. Did you write this — I do remember it was — I remember at the clock at about ten after because I	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I told him I need him to go to Bernina. He's like, I can't go to Bernina, I have too many stops left, I'm not going to get done until about 9:00 o'clock tonight. And I said okay, well, you know, we really need help there, are you sure you can't go there? No, I can't, I have too many stops. And I said okay. And then at that point, you know, I tried to think, well, who can go there now. And then — MR. WATSON: You were asked about the conversation. Answer the question, please. BY MR. COFFEY: Q. Anything else said in the conversation with Mr. Andreu? A. No. I just asked him if he can go
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	4:00? A. Jose arou that the psend him Q. is when land A. Q. memory' A. Between Q. A. V. V. A. V. V. A. V.	Because I remember I had talked to and 4:00 o'clock, so I had to be notified bick-up needed to be covered in order to a message. When you say you talked to Jose, this he calls you back? Correct. You say it's around 4:00 o'clock? Yes. What range are we looking at in your? Maybe five to 4:00, five after 4:00. that time. So maybe 3:55 to 4:05? Yes. And how do you know that? Because that's what time it was. Did you write this — I do remember it was — I remember at the clock at about ten after because I	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	called. There's multiple lines. Q. Are there more than two numbers that can possibly be called? A. Uh-huh. Q. Okay. So you get a call from him. What is said and by who? A. When I answer the phone, you know, I told him I need him to go to Bernina. He's like, I can't go to Bernina, I have too many stops left, I'm not going to get done until about 9:00 o'clock tonight. And I said okay, well, you know, we really need help there, are you sure you can't go there? No, I can't, I have too many stops. And I said okay. And then at that point, you know, I tried to think, well, who can go there now. And then — MR. WATSON: You were asked about the conversation. Answer the question, please. BY MR. COFFEY: Q. Anything else said in the conversation with Mr. Andreu? A. No. I just asked him if he can go

		·····	1	
1	A.	Well, he said he had 60 stops left and	1	Q. Do you have any documents, notes,
2	he would	n't be able to go there.	2	anything that would help you refresh your
3	Q.	Did he say too many or did he give you	3	recollection as to what time that call was?
4	a number	?	4	A. No, I don't.
5	Α.	He said 60 stops.	5	Q. And what was said in your telephone
6	Q.	In the phone conversation?	6	conversation with Mr. Ziltz then?
7	À.	Yes. Because I told him I did tell	7	A. I told him I sent a message to Andreu
8	him if you	u have 60 stops left, you can do 20 an hour	8	and he wouldn't be able to you know, he called me
9	-	be done by 7:00.	9	back, he said he had 60 stops left, that he wouldn't
10	Q.	Anything else in the phone conversation	10	be able to go help at Bernina and he told me he
11	with Mr.		11	wouldn't be done until 9:00 o'clock tonight.
12	Α.	I believe that was it.	12	And he said tell him he needs to
13	Q.	What is your next communication with	13	go to Bernina now, and that was the end of our
14	-	. Andreu or Mr. Ziltz or whoever it might	14	conversation. I said okay.
15		. •	15	
16		n with concerning this pick-up? I called Dave.		Q. Okay. What did you do after that?
i .	Α.		16	A. I sent the message to Jose saying I
17	Q.	Okay. Did you call or text Gorski,	17	need him to go to Bernina right now.
18	Coveny?	•	18	Q. And what kind of message was this?
19	A.	No.	19	A. That was a text message.
20	Q.	Why not?	20	Q. Through the DIAD?
21	Α.	Because I knew they wouldn't be able	21	A. Yes.
22	_	ecause they have pick-ups as well at that	22	Q. Is there any record of this
23	time.		23	anywhere
24	Q.	Okay. So you called Dave Ziltz?	: 24	A. No.
		Page 34		Page 36
1	Α.	Yes.	1	Q as to what time?
2	Q.	And is that on the phone?	2	A. No.
3	A.	Yes.	3	Q. Were you ever asked to see if you can
4	Q.	Where is Mr. Ziltz at at this point in	4	get a record from the DIAD system or any other
5	the day?	F	5	system, computer system to verify what time your
6	A.	I believe he was in Aurora.	6	A. No.
7	Q.	What's he doing?	7	Q second text message would have
8	Q. A.	If I remember correctly, there was a	8	been?
9		at was injured and he was relieving him.	9	A. No.
10	O.	So he's out on a route delivering	10	Q. What time was it?
11	-	s, correct?	11	A. That was probably about between
12	A.	•	12	quarter after and 20 after 4:00.
13		I guess, yes. Is that what he was doing?	13	· ·
1.5		75 1 1 1 2 1 1 A 1 1 2 2 1 1 1 1 1 1 1 1 1	, 13	Q. Probably?
	Q.	-	1.4	
14	Â.	I believe so.	14	A. I didn't look at the clock.
14 15	A. Q.	I believe so. Okay. And you called him on what, his	15	A. I didn't look at the clock.Q. How do we know what time it was?
14 15 16	A. Q. cell phor	I believe so. Okay. And you called him on what, his	15 16	A. I didn't look at the clock.Q. How do we know what time it was?A. Well, I know it was between 4:00 and
14 15 16 17	A. Q. cell phor A.	I believe so. Okay. And you called him on what, his se? Yes.	15 16 17	 A. I didn't look at the clock. Q. How do we know what time it was? A. Well, I know it was between 4:00 and 4:30.
14 15 16 17 18	A. Q. cell phor A. Q.	I believe so. Okay. And you called him on what, his be? Yes. Is this a company-issued cell phone or	15 16 17 18	A. I didn't look at the clock. Q. How do we know what time it was? A. Well, I know it was between 4:00 and 4:30. Q. How?
14 15 16 17 18 19	A. Q. cell phor A. Q. is it a per	I believe so. Okay. And you called him on what, his ne? Yes. Is this a company-issued cell phone or rsonal cell phone, if you know?	15 16 17 18 19	A. I didn't look at the clock. Q. How do we know what time it was? A. Well, I know it was between 4:00 and 4:30. Q. How? A. Because at 4:30 Dave called me and I
14 15 16 17 18 19 20	A. Q. cell phor A. Q. is it a per A.	I believe so. Okay. And you called him on what, his be? Yes. Is this a company-issued cell phone or rsonal cell phone, if you know? I don't know.	15 16 17 18 19 20	 A. I didn't look at the clock. Q. How do we know what time it was? A. Well, I know it was between 4:00 and 4:30. Q. How? A. Because at 4:30 Dave called me and I remember I looked at the — well, that was about —
14 15 16 17 18 19 20 21	A. Q. cell phor A. Q. is it a per A. Q.	I believe so. Okay. And you called him on what, his be? Yes. Is this a company-issued cell phone or resonal cell phone, if you know? I don't know. Okay. And what time was that call?	15 16 17 18 19 20 21	A. I didn't look at the clock. Q. How do we know what time it was? A. Well, I know it was between 4:00 and 4:30. Q. How? A. Because at 4:30 Dave called me and I remember I looked at the — well, that was about — it was at 4:42 when Dave called me.
14 15 16 17 18 19 20 21 22	A. Q. cell phor A. Q. is it a per A. Q. A.	I believe so. Okay. And you called him on what, his be? Yes. Is this a company-issued cell phone or resonal cell phone, if you know? I don't know. Okay. And what time was that call? Shortly after 4:00.	15 16 17 18 19 20 21 22	 A. I didn't look at the clock. Q. How do we know what time it was? A. Well, I know it was between 4:00 and 4:30. Q. How? A. Because at 4:30 Dave called me and I remember I looked at the — well, that was about —
14 15 16 17 18 19 20 21 22 23	A. Q. cell phor A. Q. is it a per A. Q.	I believe so. Okay. And you called him on what, his be? Yes. Is this a company-issued cell phone or resonal cell phone, if you know? I don't know. Okay. And what time was that call?	15 16 17 18 19 20 21 22 23	A. I didn't look at the clock. Q. How do we know what time it was? A. Well, I know it was between 4:00 and 4:30. Q. How? A. Because at 4:30 Dave called me and I remember I looked at the — well, that was about — it was at 4:42 when Dave called me. Q. Was it 4:30 or 4:42? A. It was 4:42.
14 15 16 17 18 19 20 21 22	A. Q. cell phor A. Q. is it a per A. Q. A.	I believe so. Okay. And you called him on what, his be? Yes. Is this a company-issued cell phone or resonal cell phone, if you know? I don't know. Okay. And what time was that call? Shortly after 4:00.	15 16 17 18 19 20 21 22	A. I didn't look at the clock. Q. How do we know what time it was? A. Well, I know it was between 4:00 and 4:30. Q. How? A. Because at 4:30 Dave called me and I remember I looked at the — well, that was about — it was at 4:42 when Dave called me. Q. Was it 4:30 or 4:42?

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Exhibit 4

Dave Ziltz Deposition Excerpts

Deposition Exhibit 2, Ziltz 2005 Quality Performance Review

Page 1

IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

JOSE ANDREU,)				
Plaintiff,))				
-VS-)	No.	07	C	0473
UNITED PARCEL SERVICE, INC.,)				
Defendant)				

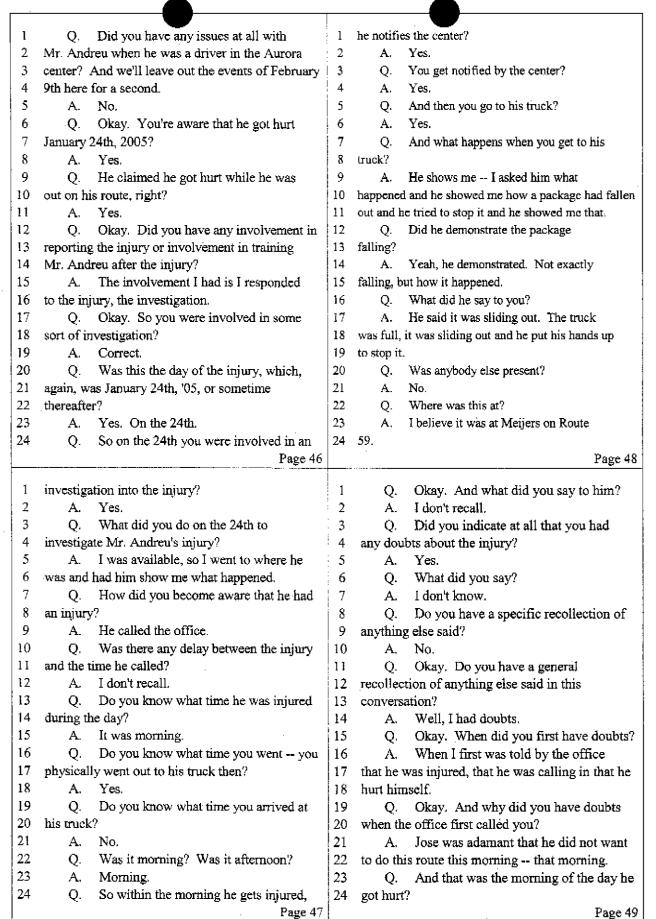
The deposition of DAVID ZILTZ, called by the Plaintiff, for examination, taken pursuant to notice and pursuant to the Federal Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Tamara Manganiello, Registered Professional Reporter and Notary Public, at Suite 850, 29 South LaSalle Street, Chicago, Illinois, on the 26th day of July, A.D., 2007, commencing at 11:04 a.m.

	PPEARANCES:		Ī	(Witness sworn.)
2	THE COFFEY LAW OFFICE, P.C.,	į	2	WHEREUPON:
	1403 East Forest Avenue	!	3	DAVID ZILTZ
3	Wheaton, Illinois 60187	j		
	(630) 462-3901		4	called as a witness herein, having been first duly
4	BY: MR. TIMOTHY J. COFFEY,	1	5	swom, was examined and testified as follows:
5	Appeared on behalf of the Plaintiff;		6	DIRECT EXAMINATION
6	QUARLES & BRADY, L.L.P.,		7	By Mr. Coffey
_	500 West Madison Street	+	-	
7	Suite 3700		8	Q. Could you state and spell your full
	Chicago, Illinois 60661		9	name, Mr. Ziltz?
8	(312) 715-5149		10	A. David Ziltz, Z-I-L-T-Z.
	BY: MR. D. SCOTT WATSON,		11	 Q. Have you ever given a deposition
9	Amenaged on boholf of the Mafordont		12	before?
10	Appeared on behalf of the Defendant.			
	LSO PRESENT:		13	A. No, I have not.
	AR. JOSE ANDREU		14	 Q. Okay. A couple of ground rules.
13	IK. JOSE ANDREO		15	First of all, my name is Tim Coffey. I'm an
13			16	attorney for Mr. Andreu who I believe you recall
15			17	from UPS, correct?
16				
17			18	A. Yes.
18		į	19	Q. Okay. He has filed a lawsuit and
19		ì	20	we're here to take your deposition, which is going
20		:	21	to consist of me asking a series of questions and
21		į		-
22		1	22	you giving answers under oath. Do you understand
23		}	23	that?
24			24	A. Yes, I do.
		Page 2		Page 4
	<u> </u>			/· · · · · · · · · · · · · · · · · · ·
. 1	INDEX		1	Q. Okay. And Tamara is going to take
2 1	HE WITNESS: DAVID ZILTZ		2	down all of my questions verbatim and all of your
	PAGES			
3			3	answers verbatim. Okay?
	irect Examination By Mr. Coffey		4	A. Ycs.
	ross Examination By Mr. Watson 194		5	Q. So if you do not understand a
5 6		ļ	6	question, please let me know and I will restate it.
O	EXHIBITS			• • •
7	EXPIDITS		7	All right?
,	PAGES		8	A. Okay.
8	111000	ļ	9	Q. If you don't do that, the record will
	iltz Exhibit No. 1		10	simply reflect my question followed directly by your
9 Z	iltz Exhibit No. 2 35		11	
	iltz Exhibit No. 3 99			answer with no indication that you had any concerns.
	iltz Exhibit No. 4104		12	Okay?
	iltz Exhibit No. 5146		13	A. Yes.
	iltz Exhibit No. 6		14	Q. Okay. If you need to take a break at
	iltz Exhibit No. 7172		15	any time, just let me know and we'll take a break.
12 13				
14		ļ	16	Okay?
15			17	A. Okay.
16			18	Q. Have you ever given any sworn
17		ļ	19	testimony before?
18	,		20	·
19				
20			21	Q. Any trial testimony?
21			22	A. No.
22	•		23	Q. So you've never been in a courtroom
23				•
24			24	and given any testimony under oath?
		Page 3		Page 5

		<u> </u>	
1	injury investigations. The doctor's notes go to her	1	A. 100.
2	from employees.	2	Q. Are you certain?
3	Q. What about Christina Hofert, do you	3	A. Yes.
4	know Christina?	4	Q. Okay. It also says that this was
5	A. No.	5	approved by Kerry Snyder; is that right?
6	MR. COFFEY: Can we go off the record	6	A. Correct.
7	for one second?	: . 7	Q. Okay. So at the time during 2005 I'm
8	(Whereupon, a discussion	8	correct in saying he was the Aurora center manager,
9	was had off the record.)	. 9	right?
10	MR. COFFEY: Back on the record.	10	A. Yes.
11	BY MR. COFFEY:	11	Q. And you were the full-time
12	Q. Were you involved in any how about	12	supervisor one of the full-time supervisors in
13	Amy Little at Liberty Mutual?	13	the Aurora center, right?
14	A. I don't know.	14	A. Yes.
15	Q. Ever any discussions with Amy Little?	15	Q. So he was your report? He was your
16	A. Don't know.	16	boss, right?
17	Q. Any involvement with Glenna Reese in	17	A. Yes.
18	May of '07 just recently concerning, I guess, an	18	Q. All through 2005?
19	injury to Ms. Hofert that you have any recollection	19	A. Yes.
20	of?	20	Q. At Page 5 of this Exhibit No. 2 it
21	A. No.	21	mentions several names. One is Kerry Snyder, but
22	Q. Okay All right, Thank you, I'll	22	one is Timothy Pope and it classifies him as a
23	show you what we'll mark as Exhibit No. 2.	23	co-worker. Was Timothy Pope your co-worker in 2005?
24	show you what we'll mark as Exhibit No. 2.	24	A. Yes.
24	D 2.4	24	<u> </u>
.,	Page 34		Page 36
1	(Document marked as	ı	Q. Okay. What was his title during that
2	Ziltz Exhibit No. 2	2	year?
3	for identification,	3	A. Pre-load manager, I believe.
4	07/26/07.)	4	Q. Was he at a higher grade than you,
5	BY MR. COFFEY:	5	lower grade than you, on an equal grade?
6	Q. Now, I ask you to take a look at	6	A. Higher grade.
7	Exhibit No. 2. It's called Quality Performance	7	Q. He was a manager, you were a
8	Review and it's got your name on it, correct?	8	supervisor?
9	A. Yes.	9	A. Yes.
10	Q. If you have a chance to look at it,	10	Q. Did you work with him side-by-side in
11	I'm going to ask you if this looks to be a true and	11	a co-worker relationship?
12	correct copy of your Quality Performance Review for	12	A. Yes.
13	the year 2005.	13	Q. And what extent?
14	(Witness peruses	14	A. Different operation. I would, as an
15	document.)	15	on-road supervisor, have dealings with him being a
16	BY THE WITNESS:	16	pre-load manager; come in and assist on the pre-load
17	A. Yes.	17	some mornings.
18	BY MR. COFFEY:	18	Q. So he's in a whole different area,
19	Q. So it looks like in 2005 you had a	19	correct?
20	final score at least on this Quality Performance	20	A. Correct.
21	Review of 77.31, that's accurate?	21	Q. Okay. What is pre-load? Describe
22	A. Yes.	22	that to me.
23	Q. What's the highest possible score you	23	A. Pre-load is the operation that sorts
24	could achieve?	24	and loads the packages into the delivery vehicles.
~~	Page 35	i	Page 37
	1486 33	i	rage 3 /

			,		
1	. Q.	And then in 2005 you're on-road, so	1	A.	No.
2	you're re	sponsible for the drivers and the actual	2	Q.	How do you do it?
3	delivery,	correct?	3	Ā.	Computer based.
4	Α.	Correct.	4	Q.	And what we see as Exhibit 2 you
5	Q.	What about Mark Suwanski, was he one	5		s all the self ratings that we have here
6	-	coworkers in 2005?	6		eve are true and correct in terms of what
7	A.	Yes.	7	-	I yourself at the end of '05 I guess?
8	Q.	What was his title during that year?	8	Α.	Yes.
9	A.	He was a pre-load supervisor.	9	Q.	Or is that in early '06 when you're
10	Q.	So he reported to Mr. Pope?	10	doing tha	- ·
11	A.	Yes.	11	A.	I don't recall.
12	Q.	Now, these people were your raters	12	Q.	Now, looking at Page 2 of Exhibit 2,
13	-	005; is that correct?	13	-	to me like you're measured on a series of
14	A,	Yes.	14		categories; is that correct?
15	Q.	How does that work? How were these	15	A.	-
	-	•			
16		ected to be your raters?	16	Q.	And some have different weightings,
17	A.	You select them with approval from	17		e worth more than others, correct?
18	your mai	-	18	A.	Correct.
19	Q	And when do you select them to be your	19	Q.	One of them, if you look at financial,
20	raters?		20		r's comp costs?
21	A.	When this QPR process starts. At the	21	A.	Yes.
22		en you're putting the numbers together.	22	Q.	How does that work. How are you rated
23	Q.	So not until the end of the year?	23		ers' comp costs?
24	Α.	Yes.	24	Α.	It's as a center on the whole.
ļ		Page 38			Page 40
1	Q.	So during the year these people don't	1	Q.	So if we
2	know tha	t they're going to be your raters?	2	A.	So I'm at
3	A.	No.	3	Q.	If we look across, there's a column
4	Q.	But then all of a sudden at the end of	4	that says	s base and it has a number 106,000. What
5	the year y	you select them and they've got to look	5	-	t number represent?
6	back thro	oughout the year and recollect their	6	A.	I don't know.
7		with you	7	Q.	Is it a dollar figure?
8	Α.	Yes.	8	Ä.	I don't know.
9	Q.	to rate you?	9	Q.	Do you understand how this works
10	Â.	Yes.	10	À.	Yeah.
11	O.	Have you ever seen anything in writing	11	Q.	this workers' comp line?
12	-	rs this Quality Performance Review process	12	Ā.	I understand how all the lines work.
13		s you a time frame of when things get done,	13		ven numbers we plug in.
14	-	ngs are due, when you're going to have your	14	Ο.	Explain to me how the workers' comp
15		nce review?	15	~	how were you measured?
16	Λ.	We're told, you know, when we have to	16	Α.	By costs to the center.
17		one. So my direct manager would say we	17	Q.	Do you know if these are costs to the
18		et this done, you know, comes out via	18		hese numbers over here to the right of
19	_	e dates that they're due through the course	19		comp costs?
20	of the year	•	20	A.	I don't know.
21	O.	And it looks like you submit a	, 20 ; 21	Q.	Are you advised during the course of
22	•	aisal, so to speak?	22	=	nat the costs to the center are for workers'
23	sen-appr Α.	Yes.	:		iat the costs to the center are for workers
24			23	comp?	No
<u> </u>	Q.	And do you do that in writing?	24	A.	No.
<u> </u>		Page 39			Page 41

		1	
1	Q. Then how do you know if you're meeting	1 1	correct?
2	that number or not or doing good, bad?	2	A. Correct.
3	A. By the injuries we have in the center.	3	Q. Okay. And you'd like that to be a
4	Q. So you're aware of claimed injuries	4	high number, I assume, right?
5	during the course of the year?	. 5	A. Yes.
6	A. Yes,	6	Q. You'd like to have the highest rating
7	Q. Okay. How do you become aware of	7	that you could have, correct?
8	that?	8	A. Yes.
9	A. The employees report their injuries to	9	Q. And you'd like to know all the things
10	us to the immediate supervisor.	10	that go into that rating so you can make it as high
11	Q. Do you get anything during the course	11	as you can, correct?
12	of the year now, Exhibit No. 2 says "how	12	A. Yes.
13	measured", and it says something called a cost	13	Q. Okay. One of the things we see is
14	statement. Do you know what a cost statement is?	14	something called workers' comp costs?
15	A. Yes.	15	A. Yes.
16	Q. What is a cost statement?	16	Q. And my question was do you think it's
17	A. It shows the costs of, you know,	17	fair, given your testimony that you don't get any of
18	the I see more of, like, right above it, the	18	the workers' comp costs during the year, you don't
19	expense billed per piece. I see more of that. You	19	know where you're at in workers' comp costs, do you
20	know, so I know the cost of the piece delivery	20	think it's fair that you're rated on something like
21	•	!	that?
l	piece.	21	
22 23	Q. Okay. We're talking about costs of	22	A. Yes, I do.
l	workers' comp, though.	23	Q. And I asked why.
24	A. I know.	24	A. Because I train drivers on safe
	Page 42		Page 44
· 1	Q. Do you see a cost statement in	1	driving methods and I train them on safe work
2	connection with workers' comp?	2	methods.
3	A. No.	3	Q. Is there anything you do day-to-day or
4	Q. Do you ever see the costs of workers'	4	month-to-month in your position as full-time
5	comp out of the Aurora center during the year from	5	supervisor to try to get yourself a better rating on
6	time to time?	6	workers' comp costs, which I guess would mean to
7	A. No.	7	keep workers' comp costs at a minimum?
8	Q. You get no reports?	8	A. Yes.
9	A. No.	. 9	Q. What do you do?
10	Q. Did you ever complain to anybody that	10	A. Correct unsafe behaviors. I do annual
11	you didn't think it was fair to be rated on	11	rides with drivers and correct their unsafe driving
12	something you didn't know what was going on during	12	habits and their work habits by the safe work
13	the year?	13	methods we have in the five safe habits we have.
14	A. No.	14	Q. With Mr. Andreu, when he was a driver
15	Q. Do you think it's fair?	15	in the Aurora center, did you have any occasion to
16	A. Yes.	16	·
17			accompany him in his truck, driving and delivering
18	Q. Why? A. It's what I'm measured on.	17	packages?
l .		18	A. No.
19	Q. I know.	19	Q. Never once?
20	A. I don't understand the question fully.	20	A. No.
21	Q. Okay. Part of your rating in this	21	Q. Did you have any safety issues with
22	77.31 for 2006, this is one of the things correct	22	Mr. Andreu when he was a driver in the Aurora
23	me if I'm wrong, this is one of the things that is	23	center?
24	considered when it comes time for your pay raise,	24	A. No.
l	Page 43	į	Page 45



1	Α.	Yes.	J	I give you	u a name of somebody you're supervising,
2	Q.	On January 24th?	2		able to tell me approximately how many
3	A.	Yes.	3	-	s been working a week the last month,
4	Q.	Okay. What did he say to you then in	4	right?	,
5	the morn	- · · · · · · · · · · · · · · · · · · ·	5	A.	No. I couldn't tell you the exact
-6	A.	He did not want to do that route. Did	6	amount.	1.07 7 1.07 7 1.00
7	not want		7	Q.	Do you know if Mr. Andreu was working
8	Q.	Did he tell you why?	8	-	going into January 24th?
9	Q. A.	Just it was full, the load was heavy.	9	A.	I'd say yes.
10	That's it.	-	10	Q.	Were most of your drivers working
11	Q.	He said I don't want to do the route,	11	overtime	
12	-	and the load is heavy?	12	A.	Yes.
13		Yes.	13		Anybody present on January 24th, the
	A.		14	Q.	when he's telling you that he doesn't want
14	Q.	Did he say I'm not feeling well, I	15	_	load is heavy and he doesn't want that
15		el very strong today, I feel an ailment	1		load is heavy and he doesn't want that
16	today, ar		16	route?	T 31411
17	Α.	No.	17	A.	I don't recall.
18	Q.	What did you say?	18	Q	Did you report that to anybody, his
19	Α.	That he needed to do the route. It	19	-	y and the statements that he made to you
20		route he was on.	20	that mon	2
21	Q.	Okay. Had you ever heard anything	21	Α.	I don't know.
22		from Jose in the past before January 24th,	22	Q.	Was that important?
23	05?		23	Α.	No.
24	A	No.	24	Q.	So you get a call from the center and
		Page 50	ļ. <u></u>		Page 52
1	Ο.	This is the first time?	1	it's in the	e morning and they tell you that he's been
2	A. ·	Yes.	2	hurt?	o moning and may ton you amo not o over
3	Q.	Okay. Either directly from Jose or	3	A.	Yes.
4	-	other employee saying, hey, Jose is saying	4	Q.	And you immediately have doubts?
5	-	't want to do a route?	5	Λ.	Yes.
6		No.	6	Q.	Anything else that we haven't covered
7	Q.	So no hesitancy before the morning of	7	•	ls you to have some doubts?
8	-	24, '05, correct?	8	A.	No.
9	A.	Yes.	و ا	Q.	Just things he said to you that
10	Q.	Do you know how many hours Mr. Andreu	10	morning	•
11	•	working that January?	11	A.	Yes,
12	A.	That day? I don't understand the	12	Q.	And then when you arrive at his truck,
13	question		13	-	express these doubts to him?
14	Q.	. Leading up to that day.	14	A.	Yes.
15	Q. A.	No.	15	Q.	What do you say?
16	Q.	This is January 24th, '05.	16	Q. A.	I don't recall.
17	Q. A.	No.	17	Q.	
18	A. Q.	Do you know if he was working overtime	. 18	-	Did you accuse him of not being
19	Q. Of no ov		1		in the injury in some fashion? I don't know.
20		erume: No.	19	A.	
1	Α.		20	Q.	You may have?
21	Q.	I mean, you keep track of overtime for	21	A.	I may have.
22		rs you supervise, correct?	22	Q.	Did you accuse him of lying?
23	. A.	The hours. The hours they work.	23	Α.	No.
24	Q.	So you know, as we sit here today, if	24	Q.	Are you sure? Page 53
		Page 51	1		rage 33

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1	A. Yes.	Ĭ	Q. Anything else that you can recall? I
2	Q. How can you be so sure?	2	know it's been a while and we're just talking about
3	A. I had my doubts, but I didn't accuse	3	it. But anything else you can recall as we are
4	him of lying. I had him demonstrate what happened.	4	going through it that was said when you were out at
5	Q. Well, you're doubting	5	the truck?
6	A. Part of my investigation.	6	A. No.
7	Q. What are you doubting? You're still	7	Q. And this is January 24th?
8	doubting. When you get to his truck, you still have	8	A. Yes.
9	doubts, right? The doubts didn't go away, correct?	9	Q. Anything else that he said when you
10	A. Correct.	10	were out at the truck on January 24th?
11	Q. So what are you doubting when you get	11	A. I don't know.
12	to the truck and he's doing the example that you	12	Q. What happens after you're out at the
13	asked him to do?	13	truck, he demonstrates what happens? What happens
14	A. That the incident happened.	14	next that day?
15	Q. Do you doubt he's in pain?	15	A. I don't remember.
16	A. Couldn't tell, you know.	16	Q. Did he continue on his route that day?
17	Q. Did he tell you he was in pain?	17	A. I don't remember.
18	A. Yeah.	18	Q. Do you know if you would have called
19	Q. You're just doubting that the very	19	an assistant to help him that day?
20	not just the pain level, but the whole thing?	20	A. I don't remember.
21	A. Yes. The incident.	21	Q. Do you know Mike Ballu?
22	Q. Anything lead you to believe once	22	A, Yes,
23	you get out to the truck, does anything support your	23	Q. Was he working that day?
24	doubts, minimize your doubts?	24	A. Yes.
	Page 54		Page 56
1	A No.	,	O De vou know if Mr. Palls was many
1	A. No.	1	Q. Do you know if Mr. Ballu was summoned
2	Q. So you still have the doubts then	2	to help him out on delivering his packages
3 4	after you leave him that day?	3	A. May have.
4			O alexa dos O
	A. Yes.	4	Q that day?
5	Q. Anything else said when you go out to	5	And whose decision is that to
5 6	Q. Anything else said when you go out to the truck after he has reported his injury?	5	And whose decision is that to assign Mr. Ballu to help him?
5 6 7	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall.	5 6 7	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the
5 6 7 8	 Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you 	5 6 7 8	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available:
5 6 7 8 9	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word?	5 6 7 8 9	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available: Q. Okay. Well, do you know if anybody
5 6 7 8 9	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word? A. I don't recall.	5 6 7 8 9	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available: Q. Okay. Well, do you know if anybody else was involved in assessing Jose's injury or
5 6 7 8 9 10	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word? A. I don't recall. Q. You may have?	5 6 7 8 9 10	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available. Q. Okay. Well, do you know if anybody else was involved in assessing Jose's injury or talking to Jose about his injury right when it
5 6 7 8 9 10 11	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word? A. I don't recall. Q. You may have? A. Don't know.	5 6 7 8 9 10 11	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available: Q. Okay. Well, do you know if anybody else was involved in assessing Jose's injury or talking to Jose about his injury right when it happens and you're out at the truck?
5 6 7 8 9 10 11 12 13	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word? A. I don't recall. Q. You may have? A. Don't know. Q. So you may have used it, if you don't	5 6 7 8 9 10 11 12 13	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Minc. Whoever is available. Q. Okay. Well, do you know if anybody else was involved in assessing Jose's injury or talking to Jose about his injury right when it happens and you're out at the truck? A. No. Me.
5 6 7 8 9 10 11 12 13 14	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word? A. I don't recall. Q. You may have? A. Don't know. Q. So you may have used it, if you don't know, that's what that means to me. Correct?	5 6 7 8 9 10 11 12 13	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available. Q. Okay. Well, do you know if anybody else was involved in assessing Jose's injury or talking to Jose about his injury right when it happens and you're out at the truck? A. No. Me. Q. Okay. So do you recall making a
5 6 7 8 9 10 11 12 13 14 15	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word? A. I don't recall. Q. You may have? A. Don't know. Q. So you may have used it, if you don't know, that's what that means to me. Correct? A. Yes.	5 6 7 8 9 10 11 12 13 14	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available: Q. Okay. Well, do you know if anybody else was involved in assessing Jose's injury or talking to Jose about his injury right when it happens and you're out at the truck? A. No. Me. Q. Okay. So do you recall making a decision that he would have a helper the rest of the
5 6 7 8 9 10 11 12 13 14 15 16	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word? A. I don't recall. Q. You may have? A. Don't know. Q. So you may have used it, if you don't know, that's what that means to me. Correct? A. Yes. Q. But you're sure you didn't say lying?	5 6 7 8 9 10 11 12 13 14 15 16	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available. Q. Okay. Well, do you know if anybody else was involved in assessing Jose's injury or talking to Jose about his injury right when it happens and you're out at the truck? A. No. Me. Q. Okay. So do you recall making a decision that he would have a helper the rest of the day?
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5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word? A. I don't recall. Q. You may have? A. Don't know. Q. So you may have used it, if you don't know, that's what that means to me. Correct? A. Yes. Q. But you're sure you didn't say lying? A. Yes. Q. You're sure	5 6 7 8 9 10 11 12 13 14 15 16 17 18	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available. Q. Okay. Well, do you know if anybody else was involved in assessing Jose's injury or talking to Jose about his injury right when it happens and you're out at the truck? A. No. Me. Q. Okay. So do you recall making a decision that he would have a helper the rest of the day? A. I recall now. Q. Okay.
5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word? A. I don't recall. Q. You may have? A. Don't know. Q. So you may have used it, if you don't know, that's what that means to me. Correct? A. Yes. Q. But you're sure you didn't say lying? A. Yes. Q. You're sure A. Yes.	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available. Q. Okay. Well, do you know if anybody else was involved in assessing Jose's injury or talking to Jose about his injury right when it happens and you're out at the truck? A. No. Me. Q. Okay. So do you recall making a decision that he would have a helper the rest of the day? A. I recall now. Q. Okay. A. With Mike Ballu's name, yes.
5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word? A. I don't recall. Q. You may have? A. Don't know. Q. So you may have used it, if you don't know, that's what that means to me. Correct? A. Yes. Q. But you're sure you didn't say lying? A. Yes. Q. You're sure A. Yes. Q. You're sure Yes. Q or you don't know? I'm sorry?	5 6 7 8 9 10 11 12 13 14 15 16 17 18	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available: Q. Okay. Well, do you know if anybody else was involved in assessing Jose's injury or talking to Jose about his injury right when it happens and you're out at the truck? A. No. Me. Q. Okay. So do you recall making a decision that he would have a helper the rest of the day? A. I recall now. Q. Okay. A. With Mike Ballu's name, yes. Q. So you recall now asking Mike Ballu to
5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word? A. I don't recall. Q. You may have? A. Don't know. Q. So you may have used it, if you don't know, that's what that means to me. Correct? A. Yes. Q. But you're sure you didn't say lying? A. Yes. Q. You're sure A. Yes.	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available: Q. Okay. Well, do you know if anybody else was involved in assessing Jose's injury or talking to Jose about his injury right when it happens and you're out at the truck? A. No. Me. Q. Okay. So do you recall making a decision that he would have a helper the rest of the day? A. I recall now. Q. Okay. A. With Mike Ballu's name, yes. Q. So you recall now asking Mike Ballu to
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5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. Anything else said when you go out to the truck after he has reported his injury? A. I don't recall. Q. Did you accuse him of faking? Did you use that word? A. I don't recall. Q. You may have? A. Don't know. Q. So you may have used it, if you don't know, that's what that means to me. Correct? A. Yes. Q. But you're sure you didn't say lying? A. Yes. Q. You're sure A. Yes. Q or you don't know? I'm sorry? A. Yes. Q. You're sure about lying, you're not 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	And whose decision is that to assign Mr. Ballu to help him? A. It would have been ours, in the office. Mine. Whoever is available. Q. Okay. Well, do you know if anybody else was involved in assessing Jose's injury or talking to Jose about his injury right when it happens and you're out at the truck? A. No. Me. Q. Okay. So do you recall making a decision that he would have a helper the rest of the day? A. I recall now. Q. Okay. A. With Mike Ballu's name, yes. Q. So you recall now asking Mike Ballu to help come over and help Mr. Andreu on his route that day?

1	conversations with Mr. Andreu that day?	1	Q. Did you sit down at a computer with
2	A. I don't know.	2	him and type in information concerning his accident?
3	Q. Was there any type of report that was	3	A. I don't know.
4	completed as a result of the injury or the	4	Q. So you may have, you may not have?
5	accident	5	A. I don't know.
6	A. Injury prevention report.	6	Q. Correct, sir, you may have, you may
7	Q that he's claiming? What is it	7	not have?
8	called?	8	A. Yes.
9	A. It's called an injury prevention	9	Q. Is that the usual course when one of
10	report.	10	your workers is hurt or claims to be hurt that you
11	Q. And is that something you completed?	11	would take information and put that in a computer?
12	A. No.	12	A. It's based on availability. It may be
13	Q. Did you complete any type of report	13	one of my employees or immediate reports gets hurt,
14	that day on January 24th concerning the claimed	14	but another supervisor will input the information,
15	accident? You have your doubts, but the claimed	15	call it into Liberty Mutual. It's based on
16	accident?	16	availability of the supervisor and what the other
17	A. No. I don't think so.	17	one is doing.
18	Q. Were you involved at all in reporting	18	Q. So in this particular case with
19	this accident to Liberty Mutual, the workers' comp	19	•
20	carrier?	20	A. Yes.
21	A. No.	21	Q. Did you have any conversations with
22	Q. When an accident such as this	22	let's get back to these doubts. And you still have
23	A. I don't recall.	23	them when you leave the truck with Mr. Andreu when
24	Q. So you may have?	. 24	he goes on his way to deliver packages for the rest
	Page 58		Page 60
1	A. May have.	1	of the day. Do you express these doubts to anybody
2	Q. When a driver under your supervision	2	else?
3	reports an accident, is there not a form that needs	3	A. I don't recall.
4	to be completed that details the report, at least	4	Q. Did you have a conversation with Kerry
5	A. Yes.	5	Snyder about the accident and/or your doubts?
6	Q the alleged accident?	6	A. Yes.
7	A. Yes.	7	Q. The day of?
8	Q. And did that happen on this occasion?	8	A. Yes.
9	A. Yes.	9	Q. Okay. And where is that conversation
10	Q. And who did that?	10	at?
11	A. I believe Melissa. The other	11	A. Probably by phone.
12	supervisor filled that out.	12	Q. When during January 24th was this?
13	Q. And are you referring to the injury	13	A. Probably immediately after I met with
14	prevention?	14	Jose.
15	A. Yes.	15	Q. Do you have a specific recollection of
16	Q. What is it, the injury prevention	16	what was said between you and Kerry?
17	A. Prevention report.	17	A. I do not.
18	Q. At the end of the shift on	18	Q. Do you have a general recollection of
19	January 24th, '05, did you have any conversations	19	what the discussion was between you and Kerry?
20	with Mr. Andreu when he came back into the Addison		A. General would be I would be explaining
21	-	.21	what happened, you know, per the investigation, that
22	A. I don't know.	22	we did get someone to ride with him, that we needed
23	Q. Not sure if you did or not?	23	to find someone because he says his back was
24	A. No. Don't know.	24	hurting, so
	Page 59	١.	Page 61

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1	Q. This is what Jose told you?	1	A. No. That's with the employee.
2	A. That's probably what I would have	2	Q. Did you have any part to play in any
3	that's what I would have covered with my manager. I	3	training after the injury of January 24th?
4	would have to cover with my next level.	4	A. I don't recall,
5	Q. Mr. Snyder?	5	Q. Anything else in your investigation?
6	A. Yes.	6	I keep calling it an investigation. It seems like
7	Q. Okay. What else did you tell	7	it was you going to the truck and questioning
8	Mr. Snyder about the accident?	8	Mr. Andreu
9	A. I don't recall.	9	A. Yes.
10	Q. What did you tell him about your	10	Q him demonstrating what happened and
11	doubts'?	11	then you getting him some help driving?
12	A. Then I explained at the time that, you	12	A. Yes.
13	know, in the morning of him not wanting to do the	13	Q. Any other parts to the investigation?
14	route.	14	A. No.
15	Q. You told this to Mr. Snyder in your	15	Q. Any other discussions let me back
16	conversation?	16	up one second.
17	A. Yes.	17	Did you discuss this investigation
18	Q. Your telephone conversation?	18	or the event of January 24th, 2005, with anybody
19	A. Yes.	19	else since you got off the phone with Kerry Snyder
20	Q. Right after you were out to see	20	and you updated him?
21	Mr. Andreu?	21	A. I don't know,
22	A. Yes.	22	Q. Have you discussed it recently with
23	Q. You tell him about the morning	23	anybody?
24	A. Yes.	24	A. No.
	Page 62		Page 64
	Q statement that Mr. Andreu made?	1	Q. In terms of preparing for the
2	A. Yes.	2	deposition, have you had any conversations with
3	Q. What else did you say?	3	anybody? Today's deposition.
4	A. I don't recall. I don't know.	4	A. With Scott.
5	Q. Do you use the word doubts? How did	5	Q. Your attorney?
6	you put it to him?	6	A. Yes.
7	A. I don't remember.	7	Q. When were those conversations?
8	Q. So you may have said doubts, but you	8	A. The day before yesterday.
9	indicated that there was some doubt in your mind as	9	Q. How many were there?
10	to the legitimacy of the accident?	10	A. Just the one.
. 11	A. Yes.	11	Q. How about Mr. Snyder?
12	Q. What did he say to that?	12	A. I spoke to him a couple days ago. Or,
13	A. I don't recall.	13	I'm sorry, last week.
14	Q. Was there any other parts of the	14	Q. You guys don't work in the same
15	investigation into the accident or the claimed	15	facility anymore
16	injuries that you were involved in?	16	A. No.
17	A. I don't know. May have,	17	Q do you?
18	Q. Well, I'm asking you your involvement.	18	So, no, you don't work in the same
19	A. I don't know. No. I did the initial	19	facility. Okay. And he's out in Rock Island, Rock
20	investigation on the scene and I believe Melissa	20	Falls, correct?
21	filled out, you know, the injury prevention report.	21	A. Yes.
22	Q. Were you involved did Melissa	22	Q. And so you spoke to him a couple weeks
23	contact you or did you contribute to the injury	23	ago, correct?
24	investigation report?	24	A. Yes.
	Page 63		Page 65
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1	A. I don't know. Maybe when it happened.	1	Mr. Snyder in your conversation shortly after you
2	Q. Okay. And you had your conversation	2	saw Jose on January 24th, who else have you talked
3	with him on the phone?	3	about or at least expressed that you had some doubts
4	A. Yes.	4	about the legitimacy or the authenticity of the
5	Q. When you're driving away from	5	claimed injury?
6	Mr. Andreu's truck, correct?	6	A. Nobody.
7	A. Yes.	7	Q. Back to Exhibit No. 2, I understand
8	Q. Do you recollect any other	8	your prior testimony that you've never seen a cost
9	conversations after that with Mr. Snyder about the	9	statement that had workers' comp costs on it; is
10	accident or the claimed injuries?	10	A. No.
11	A. No.	11	Q that what you're saying?
12	Q. Did you ever have any conversations	12	A. Yes.
13	with Liberty Mutual people about the accident or	13	Q. Okay. It's correct, though, the way
14	claimed injuries?	14	this is set up that the lower the workers' comp
15	A. I don't recall.	15	costs come in, the greater the rating you get in
16	Q. Is that a normal part of the follow-up	16	that area, correct?
17	about accidents in your Aurora center?	17	A. Yes.
18	A. I would have had involvement with them	18	Q. Okay. And the greater the rating you
19	if I would have called it in. So if I would have	19	get in that particular line item rolls down and
20	called the injury in, I would have had involvement	20	gives you a greater final rating, correct?
21	in it.	21	A. Yes,
22	So if Melissa called it in, she	22	Q. And, again, the better the final
23	would have had involvement with Liberty Mutual.	23	rating, generally speaking, the more you're going to
24	Outside of that, I wouldn't.	24	get in a pay raise, correct?
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1	Q. You're not sure if you called his	1	A. Yes.
2	accident in or not?	2	Q. What other types of things are
3	A. I'm not sure.	3	considered in your pay raises? You've got this
4	Q. Did you review any documents to	4	final rating, a numerical score. What else is
5	prepare for the deposition today?	5	considered when it comes time to give you a pay
6	A. Yes.	6	raise or decide what pay raise you would get?
7	Q. What documents did you review?	7	A. I guess your performance just your
8	 I reviewed several that Scott had. 	8	individual performance, you know.
9	Q. Two, three?	9	Q. Okay. Do you actually have a
10	A. Two or three, yes.	10	face-to-face performance review with your boss?
11	Q. Was this today, yesterday, when?	11	A. Yeah.
12	A. Yes.	12	Q. So your boss for the whole year of
13	Q. When?	13	2005 was Kerry Snyder, correct?
14	 Two days ago when we met. 	14	A. Yes.
15	Q. Was your quality performance review	15	Q. Did you have a face-to-face review
16	marked Exhibit 2 of the documents you reviewed?	16	with him then sometime in early '06?
17	A. No.	17	A. No.
18	Q. Anything else to prepare for your	18	Q. Who would you have had that with?
19	deposition?	19	A. Did not have one in that year.
20	A. No.	20	Q. You just didn't have a face-to-face at
21	Q. Did you have any discussions with	21	all?
22	anybody else at UPS to prepare for the depositions?	22	A. No.
1	· · · · · · · · · · · · · · · · · · ·	23	Q. Was that the only year you haven't had
23	A. No.		
1		24	· · · · · · · · · · · · · · · · · · ·
23			a face-to-face?

11				
Q. Did you have doubts about his pain? A. No. Q. You had doubts about the accident, right? A. Yes. Q. Did you think that the pain was from something else? A. No. Q. Did you think that the pain was from something else? A. No. Q. So was it clear that the pain that less alleging is from the accident? It's clear to you when he's telling you that? A. I don't know. Q. Well, why are you asking him if he's okay because he had the accident, right? A. Because he was an employee, he was a driver, asking his condition daily. Q. And he would say he's burting from the accident, correct? A. Mo. Until you found out he sought medical attention? A. No. Until the doctor — until he was on restrictions. I had doubts until then. Q. Okay. Which was sometime after the February 9th incident, correct? A. No. I don't recall. Q. Whenever he went on restrictions? A. No. I don't recall. Q. Whenever he went on restrictions? A. No. I don't recall if he went right after the day he reported the injury. It's a procedure whenever an employee gest burt to call the accident? A. Yes. Q. But you still have the doubts about 1 A. No, it didn't click. Q. But you still have the doubts about 2 A. A. No, I didn't click. Q. But you still have the doubts about 3 the accident? A. No, I didn't click. Q. But you still have the doubts about 4 A. He went to seek medical attention and the doctor said he had a strain in his back, I 5 think. I don't recall. So at that point, you know, my doubts are no longer doubts. I mean, the doctor said said an any time? Q. You talked to a doctor? A. A. Yes. Q. You talked to a doctor? A. A. Yes. Q. You talked to a doctor? A. Yes. Q. Okay. Whith was done right on the injury? He reported the injury? The reported the injury of the injury of the injury? A. Yes. Q. Okay. What was done right on the injury be same day or within 24 hours, so that would have been in January. Q. He called in the injury? He reported the injury. A. Yes	l	Q. So more than one it sounds like.	1	if there was a legitimate accident or not?
4 A. No. 7 A. Yes. 8 Q. Did you think that the pain was from something else? 9 Q. So was it clear that the pain that he salleging is from the accident? It's clear to you when he's celling you that? 4 A. I don't know. 15 Q. Well, why are you asking him if he's okay because he had the accident, right? 16 A. Because he was an employee, he was a driver, asking his condition daily. 17 Q. And he would say he's hurting from the accident, correct? 18 A. Because he was an employee, he was a driver, asking his condition daily. 19 Q. And did it click in your mind that this was the accident that I have doubts about? 10 A. No, it didn't click. 11 Q. But you still have the doubts about? 12 A. No, it didn't click. 13 the accident? 14 A. He went to seek medical amention and the doctor said he had a strain in his back, I the doct	2	 More than one. 	2	A. No.
So Q. You had doubts about the accident, right? A. Yes. Q. Did you think that the pain was from something else? Q. So was it clear that the pain that Q. So was it clear that the pain that A. I don't know. Leave the had the accident? It's clear to you when he's telling you that? A. I don't know. C. Well, why are you asking him if he's okay then? I mean, you're asking him if he's okay in the decause he was an employee, he was a leg driver, asking his condition daily. A. A Because he was an employee, he was a lead the intended him in the decause he was an employee, he was a lead the intended him incleant, correct? A. No. Until the doctor — until he was on restrictions. I had doubts until then. A. No. I don't recall. So A No. I don't recall is the went right at this was the accident that I have doubts about? A. Howent to seek medical attention and the doctor said he had a strain in his back, I think. I don't recall. So attention? A. How went to seek medical attention and the injury? He reported the injury? The called in the injury? He reported the injury of the next day, correct? A. Yes. The doy ou know what Mr. Andreu's doc	3	Q. Did you have doubts about his pain?	3	Q. But up to the day that he
6 right? 7 A. Yes. 8 Q. Did you think that the pain was from something else? 10 A. No. 11 Q. So was it clear that the pain that 12 he's alleging is from the accident? It's clear to 13 you when he's telling you that? 14 A. I don't know. 15 Q. Well, why are you asking him if he's okay 16 because he had the accident, right? 16 okay then? I mean, you're asking him if he's okay 19 because he had the accident, right? 18 A. Because he was an employee, he was a 19 driver, asking his condition daily. 20 Q. And he would say he's burting from the accident, correct? 21 A. Yes. 22 Q. And did it click in your mind that 24 this was the accident that I have doubts about? 22 Q. And did it click in your mind that 24 this was the accident that I have doubts about? 23 D. And did it click in your mind that 24 this was the accident that I have doubts about? 24 A. How the seek medical attention and 25 the accident? 25 Q. You talked to a doctor? 26 Q. You talked to a doctor? 27 M. A. No, I didn't recall. So at that point, you know, 70 my doubts are no longer doubts. I mean, the doctor said something was wrong. 28 Q. You talked to a doctor? 29 Q. You talked to a doctor? 30 Q. You talked to a doctor? 41 A. After the 9th he was on restrictions. 42 A. After the 9th he was on restrictions. 43 any time? 44 A. Because he didn't work. 45 Q. Who do you know what the doubts about 25 doubts are no longer doubts. I mean, the doctor said something was wrong. 46 A. No, I didn't talk to a doctor? 47 Q. You talked to a doctor? 48 A. After the 9th he was on restrictions. 49 Q. You talked to a doctor? 40 A. No, I didn't talk to a doctor? 41 A. A flee the 9th he was on restrictions. 40 A. Ro, I didn't dick to a doctor? 41 A. A flee the 9th he was on restrictions. 41 A. A flee the 9th he was on restrictions. 42 A. Because he didn't work. 43 A. Because he didn't work. 44 A. After the 9th he was on restrictions. 45 C. Cokay. Well, when was it? 46 A. No, I didn't be a doctor? 47 A. No, I didn't be a doctor? 48 A. A flee the you have doctor and series inform	4	A. No.	4	misrepresented these packages, you haven't heard
7 A. Yes. 8 Q. Did you think that the pain was from something else? 10 A. No. 11 Q. So was it clear that the pain that he heating you than the stelling you than? 12 he's alleging is from the accident? It's clear to you when he's telling you than? 13 you when he's telling you than? 14 A. I don't know. 15 Q. Well, why are you asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay the easuse he had the accident, right? 16 A. Because he was an employee, he was a least of the doubts and the accident, correct? 17 accident, correct? 18 A. Yes. 19 Q. And he would say he's hurting from the accident, correct? 19 A. Yes. 20 Q. And did it click in your mind that this was the accident that I have doubts about? 21 A. No, it didn't click. 22 Q. But you still have the doubts about? 23 A. No, it didn't click. 24 Q. But you still have the doubts about? 25 A. No, I didn't click. 26 Q. But you still have the doubts about? 27 A. No, it didn't click. 29 Q. But you still have the doubts about? 29 A. No, I don't recall. So at that point, you know, my doubts are no longer doubts. I mean, the doctor said something was wrong. 29 Q. You talked to a doctor? 20 Q. An No, I did not talk to a doctor? 30 Q. How do you know what the doctor says? 31 How do you know what Mr. Andreu's doctor had said at any time? 41 A. After the 9th he was on restrictions. 42 How do you know what Mr. Andreu's doctor had said at any time? 43 A. Because he didn't work. 44 A. After the 9th he was on restrictions. 45 Page 47 That is correct. 46 A. No, I didn't click. 47 Q. Whenever he went on restrictions? 48 A. Yes. 49 A. Yes. 40 A. No, I didn't click. 40 But you found out he sought medical attention. 40 A. No. I don't recall. the doctor — until he was on restrictions. I had dubts until the out the was on restrictions. I had dubts until the out the february? 41 A. A Fte went to seek medical attention and the doctor said he had a strain in his back, I the doctor said he had a strain in his back, I the doctor s	5	Q. You had doubts about the accident,	5	anything from any medical people, correct?
8 Q. Did you think that the pain was from something else? 9 something else? 10 A. No. 11 Q. So was it clear that the pain that 12 he's alleging is from the accident? It's clear to you when he's telling you than? 14 A. I don't know. Q. Well, why are you asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay the accident, correct? 10 Q. And he would say he's burting from the accident, correct? 11 A. No, it didn't click in your mind that this was the accident that I have doubts about? 12 Q. But you still have the doubts about? 13 the accident? 14 A. He went to seek medical attention and the doctor said he had a strain in his back, I think. I don't recall. So at that point, you know, my doubts are no longer doubts. I mean, the doctor said was done restrictions. 15 Q. How do you know what the doctor says? 16 A. After the 9th he was on restrictions. 17 Q. So sometime after the 9th you find out like he's on restrictions? 18 A. No. I didn't click. 2 Q. But you still have the doubts about? 2 A. No, it didn't click. 3 Q. You talked to a doctor. 4 A. He went to seek medical attention and the dector said he had a strain in his back, I think. I don't recall. So at that point, you know, my my doubts are no longer doubts. I mean, the doctor says? 10 A. No, I didn't click to you know what the doctor says? 11 Q. How do you know what the doctor says? 12 How do you know what the doctor says? 13 any time? 14 A. After the 9th he was on restrictions. 15 Q. How do you know what the doctor says? 16 A. Ro, it would have been in January. 17 A. No. 18 Q. Okay. So that was done right on the injury or the next day, correct? 18 Q. Okay. Well, when was it? 29 Q. And are you telling me that cases your doubts or changes	6	right?	6	A. No.
9 Q. So you're still having doubts up to the day that he's supposedly misrepresenting these you when he's telling you that? 12 he's alleging is from the accident? It's clear to you when he's telling you that? 13 you when he's telling you that? 14 A. I don'l know. 15 Q. Well, why are you asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay the he's alleging is from the accident, right? 18 A. Because he was an employce, he was a for extraction of the day that he's supposedly misrepresenting these packages, right? A. I don'l two found out he sought medical attention. A. No. Until the doctor - until he was on restrictions? A. No. Until the doctor - until he was on restrictions? A. I don't recall. A. No, I don't recall if he went right after the day he reported the injury. It's a you're the injury? He reported the injury? A. No. I don't recall if he went right after the day he reported the injury? A. No. I don't recall if he went right after the day he reported the injury? A. No. I don't recall if he went right after the day he reported the injury? A. No. I don't recall if he went right after the day he reported the injury? A. No. I don't recall if he went right after the day he reported the injury? A. Wes. A. Wes. A. Wes. A. Wes. A. Yes. Q. And you may have or may not have report this in the injury? A. Yes. Q. Okay. So	7	A. Yes.	7	Q. That's correct, correct?
10 A. No. 11 Q. So was it clear that the pain that 12 he's aligning is from the accident? It's clear to 13 you when he's telling you that? 14 A. I don't know. 15 Okell, why are you asking him if he's okay 16 okay then? I mean, you're asking him if he's okay 17 because he had the accident, right? 18 A. Because he was an employee, he was a 18 driver, asking his condition daily. 20 Q. And he would say he's burting from the 21 accident, correct? 22 A. Yes. 23 Q. And did it click in your mind that 24 this was the accident that I have doubts about? 25 Page 94 1 A. No, it didn't click. 2 Q. But you still have the doubts about 2 the accident? 3 the accident? 4 A. He went to seek medical attention and 5 the day that he's supposedly misrepresenting these packages, right? 4 A. No doubt the sought medical attention. 6 Q. Until you found out he sought medical attention. 7 On restrictions. I had doubts until then. 8 Q. Okay. Which was sometime after the Perbuary 9th incident, correct? 9 A. I don't recall. So ownertime after the 22 arcident whenever he went on restrictions? 9 Q. And doubt suntil he sought medical attention. 9 Q. Okay. Which was sometime after the 20 on restrictions. I had doubts until the sought medical attention. 9 Q. Okay. Which was sometime after the 18 Q. Until you found out he sought medical attention. 16 A. No. Until the doctor — until he was 17 on restrictions. I had doubts until then. 9 Q. Okay. Which was sometime after the 18 Perbuary 9th incident, correct? 10 Q. And did it click in your mind that 23 afternion? 11 Learning the packages, right? 12 A. No. Until you found out he sought medical attention. 14 A. No, I did not click in your mind that 20 on restrictions. I had doubts until then. 15 Q. Okay. Which was sometime after the 18 Perbuary 9th incident, correct? 16 A. No, It didn't click. 17 Q. But you still have the doubts about? 18 think. I don't recall is on a that point, you know, on what the doctor says? 19 A. No, I didnot talk to a doctor. 10 Q. Okay. So that was done right on the day of the	8	Q. Did you think that the pain was from	8	A. That is correct.
11 be's alleging is from the accident? It's clear to 12 you when he's telling you that? 13 you when he's telling you that? 14 A. I don't know. 15 Q. Well, why are you asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, the doctor said the had a strain in his back, I to doctor said he had a strain in his back, I to doctor said he had a strain in his back, I to doctor said something was wrong. 9 Q. You talked to a doctor? 9 Q. You talked to a doctor? 10 A. No, I did not talk to a doctor. 11 Q. How do you know what Mr. Andreu's doctor had said at any time? 12 A. After the 9th he was on restrictions. 13 any time? 14 A. After the 9th he was on restrictions. 15 Q. How do you know what the doctor say? 16 A. He called in the injury? He reported the injury? 17 A. Yes. 18 Q. Okay. And then we covered you got this to the insurance company, right? 19 A. Polid you follow-up with any doctor	9	something else?	9	Q. So you're still having doubts up to
Q. So was it clear that the pain that 12 he's alleging is from the accident? It's clear to 3 you when he's telling you that? 4 A. I don't know. Q. Well, why are you asking him if he's okay then? I mean, you're asking him if he's okay 15 because he had the accident, right? 18 A. Because he was an employce, he was a 19 driver, asking his condition daily. 20 Q. And he would say he's hurting from the 21 accident, correct? 22 A. Yes. 23 Q. And did it click in your mind that 24 this was the accident that I have doubts about? 25 Page 94 1 A. No, it didn't click. Q. But you still have the doubts about 3 the accident? 4 A. He went to seek medical attention and 5 the doctor said he had a strain in his back, I 6 think. I don't recall. So at that point, you know, 7 my doubts are no longer doubts. I mean, the doctor 8 said something was wrong. 9 Q. You talked to a doctor? 10 A. No, I didn't talk to a doctor. 11 A. No, I didn't talk to a doctor. 12 How do you know what Mr. Andreu's doctor had said att 13 any time? 14 A. After the 9th he was on restrictions. 15 Q. How do you know what the doctor said he so a restrictions? 16 A. Because he didn't work. 17 Q. How do you know what the doctor said he had a strain in his back, I 16 A. No, I didn't talk to a doctor. 17 Q. How do you know what Mr. Andreu's doctor had said att 18 any time? 19 Q. How do you know what the doctor say? 10 A. A After the 9th he was on restrictions. 11 Q. Okay. So that was done right on the 12 day of the injury or the next day, correct? 13 A. Yes. 14 A. After the 9th he was on restrictions. 15 Q. How do you know this? 16 A. No. I didn't telick. 17 Q. So sometime after the 9th you find out 18 he's or restrictions? 19 Q. Ada dare you telling me that eases your 20 Q. And are you telling me that eases your 21 doubts or changes your mind? What happens? 22 A. It eases my doubts. 23 Q. Did you follow-up with any doctors or 24 Mr. Andreu to do anything else to try to figure out 25 A. I to altedious until he sought medical 26 attention? 27 A. No. Until you found o	10	A. No.	10	the day that he's supposedly misrepresenting these
he's alleging is from the accident? It's clear to you when he's telling you than? A I don't know. Q Well, why are you asking him if he's okay to because he had the accident, right? A Because he was an employee, he was a driver, asking his condition daily. Q And he would say he's hurting from the driver, asking his condition daily. Q And he would say he's hurting from the driver, asking his condition daily. Q And did it click in your mind that this was the accident that I have doubts about? Page 94 A No, it didn't click. Q But you still have the doubts about? A He went to seek medical attention and the accident? A He went to seek medical attention and the accident? A He went to seek medical attention and the doctor said he had a strain in his back, I think. I don't recall. The accident of the doubts about the sought medical the injury the same day or within 24 hours, so that would have been in January. Q He called in the injury? He reported the injury? A Yes. Q And you may have or — we've already covered this. You may have or may not have report this to the insurance company, right? A Yes. Q How do you know what the doctor says? How do you know what the doctor says? How do you know what the obotor says? How do you know what Mr. Andreu's doctor had said at any time? A A Because he didn't work. Q So sometime after the 9th you find out the hear or estrictions? A Research e didn't work. Q So sometime after the 9th you find out the hear or estrictions? A I thought been after the sought medical attention? A No. Until the doctor — until he was on restrictions. I had doubts until the sought medical attention? A No. Until the doctor — until he was on restrictions. I had doubts until he sought medical attention? A No. Until the doctor — until he was on restrictions. I had foubts until he sought medical attention? A No. Until the doctor — until he was on restrictions. I had foubts until he sought medical attention? A No. I don't recall. Q Okay. Well, whor a verticing attention and the injury. It's a procedure whe	11	Q. So was it clear that the pain that	11	
13 you when he's telling you that? 14 A. I don't know. 15 Q. Well, why are you asking him if he's okay 17 because he had the accident, right? 16 okay then? I mean, you're asking him if he's okay 18 decause he had the accident, right? 17 because he had the accident, right? 18 A. Because he was an employce, he was a 19 driver, asking his condition daily. 20 Q. And he would say he's hurting from the 21 accident, correct? 21 A. Yes. 22 A. Yes. 23 Q. And did it click in your mind that 24 this was the accident that I have doubts about? 24 Page 94 1 A. No, it didn't click. Q. But you still have the doubts about 24 the accident? 24 A. He went to seek medical attention and 25 the doctor said he had a strain in his back, I 26 think. I don't recall. So at that point, you know, 27 my doubts are no longer doubts. I mean, the doctor 3 said something was wrong. 3 Q. You talked to a doctor? 4 A. No, I did not talk to a doctor? 5 Q. You talked to a doctor? 5 Q. You talked to a doctor? 6 Q. You talked to a doctor? 7 Q. How do you know what the doctor says? 11 How do you know what the doctor says? 12 How do you know what Mr. Andreu's doctor had said at 3 any time? 13 After the 9th he was on restrictions. 14 A. Because he had the accident; right? 15 Q. How do you know this? 16 A. Because he didn't work. Q. So sometime after the 9th you find out 18 he's on restrictions? 17 Q. And are you telling me that eases your 21 doubts or changes your mind? What happens? 28 Q. Did you follow-up with any doctors or 29 Did you follow-up with any doctors or 21 Did you follow-up with any doctors or 21 Did you follow-up with any doctors or 22 A. It would have been after we called it in. It would have been after we called it attention the first time. 29 Q. Did you follow-up with any doctors or 21 doubts or changes your mind? What happens? 29 Q. Did you follow-up with any doctors or 22 A. It would have been after we called it attention the first time. 20 Q. Did you follow-up with any doctors or 23 Q. Did you follow-up with any doctors or 24 Mr. Andr	12	·	12	- · · ·
A. I don't know. Q. Well, why are you asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay the because he had the accident, right? A. Because he was an employce, he was a diver, asking his condition daily. Q. And he would say he's hurting from the accident, correct? A. Yes. Q. And did it click in your mind that this was the accident that I have doubts about? Page 94 A. No, it didn't click. Q. But you still have the doubts about the accident? A. He went to seek medical attention and the doctor said he had a strain in his back, I think. I don't recall. So at that point, you know, my doubts are no longer doubts. I mean, the doctor said something was wrong. Q. You talked to a doctor? A. No, I did not talk to a doctor? A. No, I did not talk to a doctor? A. No, I did not talk to a doctor? A. No, I did not talk to a doctor? A. No, I did not talk to a doctor? A. No, I did not talk to a doctor? A. After the 9th he was on restrictions. A. After the 9th he was on restrictions. A. Because he was an employee, he was a the restrictions. A. No, I didn't click. Q. But you still have doubts about the accident; Page 94 The was one the accident that I have doubts about? A. He went to seek medical attention and the injury. It's a procedure whenever an employee gets hurt to call result would have been in January. The injury? He reported the injury? He reported the injury? A. Yes. C. He called in the injury? He reported the injury? A. Yes. Q. And you may have or we've already covered this. You may have or we've already covered this to the insurance company, right? A. Yes. G. Okay. So that was done right on the day of the injury or the next day, correct? A. Yes. C. Okay. Well, when was it? A. We have a doctor and restrictions? A. No. C. Okay. Well, when was it? A. It would have been after we called it untention? A. It	13		13	· ·
15 Q. Well, why are you asking him if he's okay then? I mean, you're asking him if he's okay then? I mean, you're asking him if he's okay to because he had the accident, right? 18 A. Because he was an employee, he was a left diver, asking his condition daily. 20 Q. And he would say he's hurting from the accident, correct? 21 accident, correct? 22 A. Yes. 23 Q. And did it click in your mind that this was the accident that I have doubts about? 24 this was the accident that I have doubts about? 25 Page 94 1 A. No, it didn't click. 2 Q. But you still have the doubts about the doctor said he had a strain in his back, I think. I don't recall. So at that point, you know, my doubts are no longer doubts. I mean, the doctor said something was wrong. 3 Q. You talked to a doctor? 4 A. No, it didn't click. 2 Q. Whenever he went on restrictions? 4 A. He went to seek medical attention and the doctor said he had a strain in his back, I think. I don't recall. So at that point, you know, my doubts are no longer doubts. I mean, the doctor said something was wrong. 4 Q. You talked to a doctor? 4 A. No, I didn't recall. 5 the enjury the same day or within 24 hours, so that would have been in January. 6 Q. And you may have or we've already to evered this. You may have or we've already covered this. You may have or may not have report this to the insurance company, right? A. Yes. Q. Okay. So that was done right on the day of the injury or the next day, correct? A. No. 9 Q. How do you know what Mr. Andreu's doctor had said at any time? 10 A. After the 9th he was on restrictions. 11 Q. How do you know this? 12 A. Yes. Q. Okay. And then we covered you got some information from him about a doctor and restrictions and I think you said that was after restrictions and I think you got this information? A. No. Q. Okay. Well, when was it? A. It would have been after he sought the attention the first time? Q. Okay. Well, aboyou know when he sought medical attention the first time? A. It would have been after	14	= -	14	O. Until you found out he sought medical
16 okay then? I mean, you're asking him if he's okay 17 because he had the accident, right? 18 A. Because he was an employee, he was a 19 driver, asking his condition daily. 20 Q. And he would say he's hurting from the 21 accident, correct? 22 A. Yes. 23 Q. And did it click in your mind that 24 this was the accident that I have doubts about? 25 Page 94 1 A. No, it didn't click. Q. But you still have the doubts about 26 the accident? 27 A. He went to seek medical attention and 28 the doctor said he had a strain in his back, I 29 think. I don't recall. So at that point, you know, 29 my doubts are no louger doubts. I mean, the doctor 29 a. No, I don't recall in the injury. It's a 29 the injury the same day or within 24 hours, so that 29 would have been in January. 30 Q. He called in the injury? He reported 4 A. He went to seek medical attention and 4 the doctor said he had a strain in his back, I 4 Mr. Andreu to do anything dese to try to figure out 4 A. After the 9th he was on restrictions. 4 A. After the 9th he was on restrictions. 5 A. Pes. 6 Q. Okay. So that was done right on the 6 A. No. Until the doctor until he was on restrictions? 7 A. I don't recall. 9 C. Wand how has till then. 9 C. Whenever he went on restrictions? A. No. I don't recall if he went right 20 A. No. I don't recall if he went right 21 after the day he reported the injury. It's a 22 procedure whenever an employee gets hurt to call 23 dret the day he reported the injury? He reported 24 the injury? He reported 25 A. Yes. Q. And you may have or we've already 26 covered this. You may have or we've already 27 covered this. You may have or we've already 28 covered this very may not have report 29 A. Yes. Q. Okay. So that was done right on the 29 G. As a fter the 9th you find out 29 G. Didy ou follow whith whe. 29 G. And are you telling me that eases your 29 G. Okay. And then we covered you got 29 So sometime after the 9th you find out 29 G. And are you telling me that eases your 29 G. Okay. Well, when was if? 29 A. I towuld have been	15	•	i	-
17 because he had the accident, right? 18 A. Because he was an employee, he was a divier, asking his condition daily. 20 Q. And he would say he's hurting from the accident, correct? 21 accident, correct? 22 A. Yes. 23 Q. And did it click in your mind that this was the accident that I have doubts about? 24 Page 94 1 A. No, it didn't click. 2 Q. But you still have the doubts about the accident? 3 the accident? 4 A. He went to seck medical attention and the doctor said he had a strain in his back, I think. I don't recall. So at that point, you know, my doubts are no longer doubts. I mean, the doctor said something was wrong. 4 Q. You talked to a doctor? 4 A. No, I did not talk to a doctor? 5 Q. How do you know what Mr. Andreu's doctor had said at any time? 4 A. After the 9th he was on restrictions. 5 Had doubts until then. 9 Q. Okay. Which was sometime after the february 9th incident, correct? A. I don't recall. 9 Q. Whenever he went on restrictions? A. No. I don't recall if he went right after the day he reported the injury. It's a procedure whenever an employee gets hurt to call would have been in January. 9 Q. He called in the injury? He reported the injury? 9 A. Yes. 9 Q. You talked to a doctor? 9 A. Yes. 10 A. No, I did not talk to a doctor. 11 Q. How do you know what Mr. Andreu's doctor had said at any time? 12 How do you know what Mr. Andreu's doctor had said at any time? 13 any time? 14 A. After the 9th he was on restrictions. 15 Q. How do you know this? 16 A. Because he didn't work. 17 Q. So sometime after the 9th you find out any time after the day he reported the injury. It's a procedure whenever an employee gets hurt to call the injury? He same day or within 24 hours, so that would have been in January. 19 A. Yes. 10 Q. He called in the injury? He reported the injury? 20 Q. How do you know what Mr. Andreu's doctor had said at any time? 21 down the injury or the next day, correct? 22 A. Yes. 23 Q. Okay. And then we covered you got some information? 24 A. No. 25 Q. Okay. Well, when was it? 26 A. No. 27		• • • • • • •	1	
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24 Mr. Andreu to do anything else to try to figure out 24 in.		-	ļ.	-
· · · · -			! '	
Page 95	24	·		
100		Page 9	5	Page 9

1	that also well, strike that.	I	Never saw that.
2	Looking at line number 123, you've	2	Q. How could that happen?
3	got a start at 1500, stop at 1500, the same as Line	3	A. I don't know.
4	24. Line 25 is 1502 to 1502. Up on 23 you've got	4	Q. A stop just doesn't go into the DIAD
5	43 clicks or minutes between stops. I mean, does	5	board; is that one way it would happen?
6	that appear to be an erroneous length of time	6	A. I don't know. The stops have to go on
7	between stops showing?	7	the DIAD board. I don't know this technology, you
8	A. It appears to be.	8	know, the report writing that was used for this.
9	Q. So this should all compute? In other	9	Q. In terms of the DIAD board, had you
10	words, if you look from the start of the stop to the	10	ever looked up DIAD information on a particular
11	completion of the stop, it should compute — the	11	driver, like, the next day if you had a concern or
12	number should roll right out at time at stop, right,	12	question over whether that driver had made the stops
13	it should be the difference between the two?	13	or had done something inappropriate?
14		14	A. Yes.
	A. Yeah. Time at stop, from start stop	15	
15	to	1	Q. How often do you do that at the Aurora
16	Q. Okay. To the extent that isn't the	16	center?
17	case, it's an erroneous time at stop number; is that	17	A. I would almost daily.
18	what you think?	18	Q. And how do you access that
19	A. I can't tell.	19	information? How do you get that information the
20	Q. But that's at least what the time at	20	following it's the following day for the previous
21	stop column should reflect, correct?	21	day?
22	A. Time at stop, time between stop.	22	A. A similar report like this I have a
23	Q. And the time between stop, you should	23	dispatch sup., I'll call him in the morning, you
24	be able to go off the last stop complete, the	24	know, when we have a driver with super excess hours,
1	Th. 1.1.4	1	Th. 4+2
<u></u>	Page 114		Page 116
1	Page 114 difference between that and the next start of the	, 1	Page 116 things that happened, I'll ask him to print what's
1 2		1 2	things that happened, I'll ask him to print what's
- 1	difference between that and the next start of the	1 .	things that happened, I'll ask him to print what's the new report, time between stops now, so I can
2	difference between that and the next start of the stop, correct? A. Right.	2	things that happened, I'll ask him to print what's the new report, time between stops now, so I can look at it. Pick-up records. We have missed
2 3	difference between that and the next start of the stop, correct? A. Right. Q. So it should be just a mathematical	2	things that happened, I'll ask him to print what's the new report, time between stops now, so I can look at it. Pick-up records. We have missed pick-ups. A customer calls in saying he didn't get
2 3 4 5	difference between that and the next start of the stop, correct? A. Right. Q. So it should be just a mathematical equation, just a difference between the two, right?	2 3 4	things that happened, I'll ask him to print what's the new report, time between stops now, so I can look at it. Pick-up records. We have missed pick-ups. A customer calls in saying he didn't get a pick-up, we'll have a pick-up record printed and
2 3 4	difference between that and the next start of the stop, correct? A. Right. Q. So it should be just a mathematical equation, just a difference between the two, right? A. (Witness nodding.)	2 3 4 5 6	things that happened, I'll ask him to print what's the new report, time between stops now, so I can look at it. Pick-up records. We have missed pick-ups. A customer calls in saying he didn't get a pick-up, we'll have a pick-up record printed and we'll see if they were there and, indeed, what time
2 3 4 5 6 7	difference between that and the next start of the stop, correct? A. Right. Q. So it should be just a mathematical equation, just a difference between the two, right? A. (Witness nodding.) Q. And to the extent it's not, then the	2 3 4 5 6 7	things that happened, I'll ask him to print what's the new report, time between stops now, so I can look at it. Pick-up records. We have missed pick-ups. A customer calls in saying he didn't get a pick-up, we'll have a pick-up record printed and we'll see if they were there and, indeed, what time they were there, how many pieces they picked up.
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2 3 4 5 6 7 8 9 10	difference between that and the next start of the stop, correct? A. Right. Q. So it should be just a mathematical equation, just a difference between the two, right? A. (Witness nodding.) Q. And to the extent it's not, then the time between stop column is incorrect, right? A. Correct. Q. I mean, have you often found those types of errors with this report?	2 3 4 5 6 7 8 9 10	things that happened, I'll ask him to print what's the new report, time between stops now, so I can look at it. Pick-up records. We have missed pick-ups. A customer calls in saying he didn't get a pick-up, we'll have a pick-up record printed and we'll see if they were there and, indeed, what time they were there, how many pieces they picked up. Q. So all of this information you can access when you want to figure out if anything is going wrong on a route on any particular day, correct?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	difference between that and the next start of the stop, correct? A. Right. Q. So it should be just a mathematical equation, just a difference between the two, right? A. (Witness nodding.) Q. And to the extent it's not, then the time between stop column is incorrect, right? A. Correct. Q. I mean, have you often found those types of errors with this report? A. This older one, yes, occasionally. Q. The ones A. Yes. Q that were in use when Mr. Andreu was an employee in February of '05? A. Yes. Q. So they're not very accurate in that respect anyways, correct?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	things that happened, I'll ask him to print what's the new report, time between stops now, so I can look at it. Pick-up records. We have missed pick-ups. A customer calls in saying he didn't get a pick-up, we'll have a pick-up record printed and we'll see if they were there and, indeed, what time they were there, how many pieces they picked up. Q. So all of this information you can access when you want to figure out if anything is going wrong on a route on any particular day, correct? A. Not the following day. The next day. Q. What about after the next day? Can you get the information? A. Yes. Q. Can you still get the information? A. Yes. Q. Okay. Is there a point in time where you can't get the information anymore
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	difference between that and the next start of the stop, correct? A. Right. Q. So it should be just a mathematical equation, just a difference between the two, right? A. (Witness nodding.) Q. And to the extent it's not, then the time between stop column is incorrect, right? A. Correct. Q. I mean, have you often found those types of errors with this report? A. This older one, yes, occasionally. Q. The ones A. Yes. Q that were in use when Mr. Andreu was an employee in February of '05? A. Yes. Q. So they're not very accurate in that respect anyways, correct? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	things that happened, I'll ask him to print what's the new report, time between stops now, so I can look at it. Pick-up records. We have missed pick-ups. A customer calls in saying he didn't get a pick-up, we'll have a pick-up record printed and we'll see if they were there and, indeed, what time they were there, how many pieces they picked up. Q. So all of this information you can access when you want to figure out if anything is going wrong on a route on any particular day, correct? A. Not the following day. The next day. Q. What about after the next day? Can you get the information? A. Yes. Q. Can you still get the information? A. Yes. Q. Okay. Is there a point in time where you can't get the information anymore— A. Yes.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	difference between that and the next start of the stop, correct? A. Right. Q. So it should be just a mathematical equation, just a difference between the two, right? A. (Witness nodding.) Q. And to the extent it's not, then the time between stop column is incorrect, right? A. Correct. Q. I mean, have you often found those types of errors with this report? A. This older one, yes, occasionally. Q. The ones A. Yes. Q that were in use when Mr. Andreu was an employee in February of '05? A. Yes. Q. So they're not very accurate in that respect anyways, correct?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	things that happened, I'll ask him to print what's the new report, time between stops now, so I can look at it. Pick-up records. We have missed pick-ups. A customer calls in saying he didn't get a pick-up, we'll have a pick-up record printed and we'll see if they were there and, indeed, what time they were there, how many pieces they picked up. Q. So all of this information you can access when you want to figure out if anything is going wrong on a route on any particular day, correct? A. Not the following day. The next day. Q. What about after the next day? Can you get the information? A. Yes. Q. Can you still get the information? A. Yes. Q. Okay. Is there a point in time where you can't get the information anymore

Page 117

When does that come out?

They archive it to a disk.

Page 115

23

24

Q.

A.

23

24

particular deliveries or stops?

Never have been involved with that.

			r -	
1	Q.	Okay.	1	Q. And at any point in time with respect
2	À,	And that's as much as I know. I'm not	2	to February 9th, 2005, when Mr. Andreu supposedly
3	involved	with that.	3	made the misrepresentation, did you go and access
4	Q.	Have you ever had to go to the archive	4	any information off the DIAD board to try to figure
5	or at leas	st have somebody going to the archive and	5	out the number of packages he had or anything else
6		k and look at older information?	6	that may have played into, you know, whether he had
7	A.	I have not.	7	misrepresented the packages or not?
8	Q.	But that's something you can do,	8	A. I don't recall.
9	correct?	<u> </u>	9	Q. You don't know if you did or didn't?
10	A.	I think. Yes.	10	A. I don't know if I did or didn't. I
11	Q.	Where are these archives at?	11	don't think I did.
12	A.	Archives, I don't know. The disks are	12	Q. Okay. Do you know if anybody ever
13	in a rig	ght by our computer in the office, the	1.3	did?
14	dispatch	computer.	14	A. I don't know.
15	Q.	Okay. Did you say you go to somebody	15	Q. Did anybody request were you
16	and ask	for these reports, ask for this information?	16	involved in any discussions where it was brought up,
17	A.	Similar to reports, yes, I do.	17	hey, maybe we should access the DIAD system and see
18	Q.	Who do you go to?	18	how many packages he had or didn't have or whatever
19	Ā.	John Coker	19	other information that may help us with this issue?
20	Q.	And what is Mr. Coker's position?	20	A. I don't recall.
21	A.	He is the dispatch supervisor.	21	Q. But as far as you know, that
22	Q,	And how long has he been dispatch	22	information certainly was accessible, the DIAD
23	supervis	or?	23	information?
24	Α.	In my center, a year.	24	A. Yes.
		Page 118		Page 120
	0	In the Aurers center one year?		O Olean Whether it was saved or
2	Q. A .	In the Aurora center one year? Yes.	2	Q. Okay. Whether it was saved or archived or put on a disk, it was accessible to you?
3	Q.	Who was in that position before him?	3	A. Yes.
4	Q. A.	Nobody. It's a new system.	4	Q. Now, the DIAD board, would that
5	Q.	What is the new system?	5	also drivers can send back and forth messages, I
6	A.	Pre-load assist system. It's all	6	understand, through the DIAD board, text messages,
7	compute	•	7	correct?
8	Q.	What was it before?	8	A. Yes.
9	Q. A.	It didn't exist.	9	Q Okay. Is that information saved or
10	Q.	The DIAD system didn't exist before?	10	accessible once it is entered in the DIAD? Can you
11	A.	The pre-load assist system.	117	retrieve it the following day?
12	Q.	What about the DIAD system, sir,	12	A. No.
13	-	nformation off the DIAD board?	13	Q. Why not?
14	A.	Yes.	14	A. I don't know.
15	Q.	Yes what?	15	Q. How do you know you can't?
16	A.	It existed.	16	A. I don't know. I don't know.
17	Q. ·	Okay. Who would you go to then prior	17	Q. So you may, you're just not sure?
18		Coker to access that information or reports	18	A. Yes, I'm not sure.
19		ormation from the DIAD system, the DIAD	19	Q. So that information may indeed be
20	board?		20	accessible, just like all the other DIAD information
21	Α,	The reports I had access to, I would	21	is accessible, correct?
		12017	: 22	A. Correct.
22	20 to.			
22 23	go to. O.	You would do it vourself?	23	O. With respect to Mr. Andreu, did you
23	Q.	You would do it yourself? Yes.	23 24	Q. With respect to Mr. Andreu, did you ever — you know, there was — you're aware there
	-	You would do it yourself? Yes. Page 119	24	Q. With respect to Mr. Andreu, did you ever — you know, there was you're aware there Page 121

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Bast on February 9th, 2005, correct? A. Yes. Q. Did you ever at any point in time go to the DIAD system or try to find the times of these text messages or the content of these text messages? A. No. Q. Do you know if anybody did? A. No. Q. Were you involved in any discussions of the text care up, the possibility of looking through the DIAD information to ry to retrieve the text messages that went back and forth between Mr. Andreu and Cheryl Bast? A. No. Q. Or the timing of those messages? A. No. Q. So, on February 9th, 2005, what were your duties that day? What were you doing? This is, again, the day that there was supposedly this misrepresentation. Do you recall where you were at that day? Q. What were you doing? That day? A. Yes. Q. What were you doing? That day? A. Yes. Q. What were you doing? That day? A. Yes. Q. What were you doing? That day? A. Yes. Q. What were you doing? That day? A. Yes. Q. What were you doing? That day? A. Yes. A. I was Gary Coveny's route. Page 122 That day? Q. Do you know what route you were at that day. Q. Do you know what route you were doing that day? Q. Do you know what route you were doing that you've been thinking about recently? A. No. Q. How do you remember it so clearly? A. No. Q. How do you remember some things better. Q. So you are out on Gary Coveny's route, thinking about recently? A. Recause I remember some things better. Q. Do you know had any discussions with Mr. Andreu, let's say -1 know there's a point in time where you go out to his truck that day, correct? A. Yes. Q. Was there any issues at that point in time that that you went to his truck or more than one? A. No. Q. Was there any issues at that point in time that that times of these text meth point in time that that you went to his truck or more than one? A. No. Q. Was there any issues at fail point in time that aday, correct? A. No. Q. Was there any issues at not point in time that aday, correct? A. No. Q. Was there any issues at that point in point in time tha	1	was a couple text messages between him and Cheryl	I	A. There were two times.
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misrepresentation. Do you recall where you were at that day? A. Yes. Q. What were you doing? Page 122 1 A. I was doing a delivery route that day. Q. Do you know what route you were doing at that day? A. Yes. Q. Do you know what route you were doing at that day? A. Yes. Q. What route? A. I don't recall. I know Matt and I wish meeting several drivers. A. I don't recall. I know Matt and I wish Mr. Andreu at the meet point? A. Yes. Q. You remember that clearly? A. Yes. Q. You remember that clearly? A. No. Q. Is this something that you've been thinking about recently? A. No. Q. How do you remember it so clearly? A. No. Q. How do you remember some things better. Q. So you are out on Gary Coveny's route. Why don't you tell me what — did you have any discussions with Mr. Andreu, let's say — I know there's a point in time where you go out to his truck that day, correct? A. Taking packages that belonged to that route. That's what the meet point was, things were left in the building and Page 124 A. Taking packages that belonged to that route. That's what the meet point was, things were left in the building and Page 124 A. Ves. Q. What other drivers were there? A. I don't recall. I know Matt and I was meeting several drivers. A. I don't recall. I know Matt and I wish meeting several drivers. A. I don't recall. I know Matt and I wish meeting several drivers. A. No. Q. Was there any issues at that point in time? A. No. Q. Was there any issues in getting him to come to the meet point? A. No. Q. And he took additional packages out of the meet point, correct? A. Yes. Q. So there was no problems getting him to pick up these additional packages. A. No. Yes. Q. So there was no problems getting him to pick up these additional packages. A. No. Q. Was there only one point in time that 23 Q. What time of day was this? A. I don't recall. I – 2:00 o'clock.		·	i	· · · · · · · · · · · · · · · · · · ·
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Page 122 Page 124 A. I was doing a delivery route that day. Q. Do you know what route you were doing 2 drivers. that day? A. Yes. Q. What route? A. It was Gary Coveny's route, C-O-V-E-N-Y. Q. You remember that clearly? A. Yes. Q. You remember that clearly? A. Yes. Q. Is this something that you've been thinking about recently? Line A. No. Q. How do you remember it so clearly? A. I remember that. Q. How? Why? A. I remember that. Q. So you are out on Gary Coveny's route. Why don't you tell me what — did you have any discussions directly with Mr. Andreu at the meet point? A. No. Q. Was there any issues at that point in to come to the meet point? A. No. Q. And he took additional packages out of the meet point, correct? A. Yes. Q. So there was no problems getting him to pick up these additional packages — A. No. Q. So there was no problems getting him to to pick up these additional packages — A. No. Q. Was there only one point in time that day, correct? A. Yes. Q. Was there of day was this? A. No. Q. What time of day was this? A. I don't recall. I – 2:00 o'clock.			!	
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that day? A. Yes. Q. What route? A. It was Gary Coveny's route, Q. You remember that clearly? A. Yes. Q. You remember that clearly? A. No. Q. Is this something that you've been thinking about recently? A. No. Q. How do you remember it so clearly? A. I remember that. Q. How? Why? A. A Because I remember some things better. Q. So you are out on Gary Coveny's route. Why don't you tell me what — did you have any discussions directly with Mr. Andreu at the meet point? A. No. Q. Were there any issues at that point in time? It A. No. Q. Was there any issues in getting him to come to the meet point? A. No. Q. And he took additional packages out of the meet point, correct? A. Yes. Q. So there was no problems getting him to pick up these additional packages — A. No. Q. So there was no problems getting him to pick up these additional packages — A. No. Q. Was there only one point in time that addy that you went to his truck or more than one? A. I don't recall. I know Matt and I A. I don't recall. I know Matt and I A. I don't recall. I know Matt and I A. No. Q. Did you have any discussions directly with Mr. Andreu at the meet point? A. No. Q. Was there any issues at that point in time? A. No. A. No. A. No. A. No. A. No. A. No. A. Yes. Q. So there was no problems getting him to pick up these additional packages — A. No. A. No. Q. How do you remember some things better. A. Yes. Q. So there was no problems getting him to pick up these additional packages — A. No. A. No. Q. — at the meet point? A. No. Q. What time of day was this? A. I don't recall. I — 2:00 o'clock.	2	Q. Do you know what route you were doing	2	I
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10 Q. Is this something that you've been 11 thinking about recently? 12 A. No. 13 Q. How do you remember it so clearly? 14 A. I remember that. 15 Q. How? Why? 16 A. Because I remember some things better. 17 Q. So you are out on Gary Coveny's route. 18 Why don't you tell me what — did you have any 19 discussions with Mr. Andreu, let's say — I know 20 there's a point in time where you go out to his 21 truck that day, correct? 22 A. Yes. 23 Q. Was there any issues in getting him to come to the meet point? 14 A. No. 15 Q. And he took additional packages out of the meet point, correct? 16 the meet point, correct? 17 A. Yes. Q. So there was no problems getting him to pick up these additional packages — 20 there's a point in time where you go out to his 21 Q. — at the meet point? 22 A. Yes. 23 Q. Was there only one point in time that 24 day that you went to his truck or more than one? 24 A. I don't recall. I — 2:00 o'clock.	-8	Q. You remember that clearly?	. 8	A. No.
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A. Because I remember some things better. Q. So you are out on Gary Coveny's route. Relating the point of the meet point, correct? A. Yes. A. Yes. So you are out on Gary Coveny's route. Relating the point of the meet point, correct? A. Yes. Q. So there was no problems getting him to pick up these additional packages truck that day, correct? A. Yes. Q. A. No. Relating thin to pick up these additional packages truck that day, correct? A. Yes. Q. — at the meet point? A. No. A. No. Q. — at the meet point? A. No. Q. What time of day was this? A. I don't recall. I - 2:00 o'clock.	15	Q. How? Why?	15	Q. And he took additional packages out of
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19 discussions with Mr. Andreu, let's say - I know 20 there's a point in time where you go out to his 21 truck that day, correct? 22 A. Yes. 23 Q. Was there only one point in time that 24 day that you went to his truck or more than one? 29 to pick up these additional packages 20 A. No. 21 Q at the meet point? 22 A. No. 23 Q. What time of day was this? 24 A. I don't recall. I - 2:00 o'clock.	18	Why don't you tell me what did you have any	18	Q. So there was no problems getting him
20 there's a point in time where you go out to his 21 truck that day, correct? 22 A. Yes. 23 Q. Was there only one point in time that 24 day that you went to his truck or more than one? 20 A. No. 21 Q. — at the meet point? 22 A. No. 23 Q. What time of day was this? 24 A. I don't recall. I — 2:00 o'clock.	19	discussions with Mr. Andreu, let's say I know	19	
22 A. Yes. 23 Q. Was there only one point in time that 24 day that you went to his truck or more than one? 25 A. No. 26 Q. What time of day was this? 27 A. I don't recall. I - 2:00 o'clock.	20	there's a point in time where you go out to his	20	= =
22 A. Yes. 23 Q. Was there only one point in time that 23 Q. What time of day was this? 24 day that you went to his truck or more than one? 22 A. No. 23 Q. What time of day was this? 24 A. I don't recall. I - 2:00 o'clock.	21	truck that day, correct?	21	Q at the meet point?
24 day that you went to his truck or more than one? 24 A. I don't recall. I – 2:00 o'clock.	22	A. Yes.	22	- · · · · · · · · · · · · · · · · · · ·
24 day that you went to his truck or more than one? 24 A. I don't recall. I 2:00 o'clock.	23	Q. Was there only one point in time that	23	Q. What time of day was this?
Page 123 Page 125	24	day that you went to his truck or more than one?	24	
		Page 123	!	Page 125

1		:	
1	Q. And then you have a second occasion to	1	Q. Do you know how many packages this
2	see him on the route later that day, correct?	2	driver who you can't remember the name is, Tom
3	A. Yes.	. 3	Gorski's route, do you know how many packages this
4	 Prior to meeting him later that day, 	4	person delivered that day?
5	do you have communications with what is your	5	A. No.
6	first indication or notification that there's some	6	Q. Do you know how many stops they had
7	issue with Mr. Andreu and this Bernina pick-up?	7	that day?
8	A. As I said, I relieved Matt on the	8	A. No.
9	route, I was doing that delivery route. The driver	. 9	Q. In your estimation, 190 stops, is that
10	whose pick up Bernina is on was Laura Martinez.	10	a lot of stops for a day?
11	She's a very good driver. And there was someone on	11	A. Depends on the route.
12	the adjacent route that didn't know the route well,	12	Q. Well, Mr. Andreu's route on
13	was in need of help, was not going to finish the	13	February 9th, 2005.
14	day. Cheryl, you know, called me. I said, you	14	A. No.
15	know, ask Laura to help. The particular person, I	15	Q. Why not?
16	don't remember who that was. And Cheryl called me	16	A. There's not a lot on that
17	back and said will Laura help, but we need to cover	17	residential route, there's not a lot of stops.
18	Bernina. And then at that point I say have Jose	18	That's average.
19	pick up Bernina.	19	Q. That's average for that route?
20	Q. Did she tell you in this conversation	20	A. Yes.
21	that she had already notified Jose and he was giving	21	Q. How is that compared to other routes?
22	some resistance?	22	A. Compared to a route similar to that
23	A. That was prior to that.	23	route?
24	Q. Okay. So you get is this a phone	24	Q. How about these other routes, Gary
	Page 126	i	Page 128
/			
			,
1	call, a text message or what?	J	Coveny's?
2	A. A phone call.] 2	A. Gary Coveny's is 109 stop route.
2 3	A. A phone call.Q. Is Cheryl calling you or did you call	_	A. Gary Coveny's is 109 stop route. Q. 109?
2 3 4	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl?	2 3 4	A. Gary Coveny's is 109 stop route.Q. 1097A. 109 to 1:0.
2 3 4 5	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura	2 3	 A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu
2 3 4 5 6	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up.	2 3 4 5 6	 A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the
2 3 4 5 6 7	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on?	2 3 4 5 6 7	 A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu
2 3 4 5 6 7 8	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent.	2 3 4 5 6	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No.
2 3 4 5 6 7 8 9	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South	2 3 4 5 6 7 8 9	 A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right?
2 3 4 5 6 7 8 9	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora.	2 3 4 5 6 7 8	 A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names.
2 3 4 5 6 7 8 9 10	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on	2 3 4 5 6 7 8 9 10	 A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess.
2 3 4 5 6 7 8 9 10 11 12	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's?	2 3 4 5 6 7 8 9 10 11	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of
2 3 4 5 6 7 8 9 10 11 12 13	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of stops on Route 59 res. route?
2 3 4 5 6 7 8 9 10 11 12 13 14	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's? A. Yes. Q. Mr. Andreu is on one?	2 3 4 5 6 7 8 9 10 11 12 13	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of stops on Route 59 res. route? A. That's 170 to 200 roughly.
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's? A. Yes. Q. Mr. Andreu is on one? A. Uh-huh.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of stops on Route 59 res. route? A. That's 170 to 200 roughly. Q. What about the route Laura Martinez
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's? A. Yes. Q. Mr. Andreu is on one? A. Uh-huh. Q. This unknown driver is on one?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of stops on Route 59 res. route? A. That's 170 to 200 roughly. Q. What about the route Laura Martinez was on on February 9th, 2005?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's? A. Yes. Q. Mr. Andreu is on one? A. Uh-huh. Q. This unknown driver is on one? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of stops on Route 59 res. route? A. That's 170 to 200 roughly. Q. What about the route Laura Martinez was on on February 9th, 2005? A. 117, 130.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's? A. Yes. Q. Mr. Andreu is on one? A. Uh-huh. Q. This unknown driver is on one? A. Yes. Q. And who was on the other? Is there	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of stops on Route 59 res. route? A. That's 170 to 200 roughly. Q. What about the route Laura Martinez was on on February 9th, 2005? A. 117, 130. Q. What about Tom Gorski's usual route?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's? A. Yes. Q. Mr. Andreu is on one? A. Uh-huh. Q. This unknown driver is on one? A. Yes. Q. And who was on the other? Is there five?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of stops on Route 59 res. route? A. That's 170 to 200 roughly. Q. What about the route Laura Martinez was on on February 9th, 2005? A. 117, 130. Q. What about Tom Gorski's usual route? A. Gorski's is 160 to 210.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's? A. Yes. Q. Mr. Andreu is on one? A. Uh-huh. Q. This unknown driver is on one? A. Yes. Q. And who was on the other? Is there five? A. I think there was four. I want to say	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of stops on Route 59 res. route? A. That's 170 to 200 roughly. Q. What about the route Laura Martinez was on on February 9th, 2005? A. 117, 130. Q. What about Tom Gorski's usual route? A. Gorski's is 160 to 210. Q. But he wasn't there that day?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's? A. Yes. Q. Mr. Andreu is on one? A. Uh-huh. Q. This unknown driver is on one? A. Yes. Q. And who was on the other? Is there five? A. I think there was four. I want to say the route that the unknown driver was on was Tom	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of stops on Route 59 res. route? A. That's 170 to 200 roughly. Q. What about the route Laura Martinez was on on February 9th, 2005? A. 117, 130. Q. What about Tom Gorski's usual route? A. Gorski's is 160 to 210. Q. But he wasn't there that day? A. Yes. He was not there, correct.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's? A. Yes. Q. Mr. Andreu is on one? A. Uh-huh. Q. This unknown driver is on one? A. Yes. Q. And who was on the other? Is there five? A. I think there was four. I want to say the route that the unknown driver was on was Tom Gorski's route, but I'm not positive.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of stops on Route 59 res. route? A. That's 170 to 200 roughly. Q. What about the route Laura Martinez was on on February 9th, 2005? A. 117, 130. Q. What about Tom Gorski's usual route? A. Gorski's is 160 to 210. Q. But he wasn't there that day? A. Yes. He was not there, correct. Q. So you get a phone call from Cheryl
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's? A. Yes. Q. Mr. Andreu is on one? A. Uh-huh. Q. This unknown driver is on one? A. Yes. Q. And who was on the other? Is there five? A. I think there was four. I want to say the route that the unknown driver was on was Tom Gorski's route, but I'm not positive. Q. Wasn't Tom Gorski there that day?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of stops on Route 59 res. route? A. That's 170 to 200 roughly. Q. What about the route Laura Martinez was on on February 9th, 2005? A. 117, 130. Q. What about Tom Gorski's usual route? A. Gorski's is 160 to 210. Q. But he wasn't there that day? A. Yes. He was not there, correct. Q. So you get a phone call from Cheryl Bast and she alerts you that there's this need for a
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. A phone call. Q. Is Cheryl calling you or did you call Cheryl? A. She called me to let me know Laura will help if we can cover the Bernina pick-up. Q. And what route is Laura on? A. It was her own route. It's adjacent. There's probably five routes in the one area, South Aurora. Q. So Laura was on one. You are on another, Gary Coveny's? A. Yes. Q. Mr. Andreu is on one? A. Uh-huh. Q. This unknown driver is on one? A. Yes. Q. And who was on the other? Is there five? A. I think there was four. I want to say the route that the unknown driver was on was Tom Gorski's route, but I'm not positive.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. Gary Coveny's is 109 stop route. Q. 109? A. 109 to 1:0. Q. Okay. And the route that Mr. Andreu was on, do you remember the route number or the route loop February 9th? A. No. Q. Does 83C sound right? A. It was called I think a couple names. Route 59 res. route, Route 59 excess. Q. Okay. What's the average number of stops on Route 59 res. route? A. That's 170 to 200 roughly. Q. What about the route Laura Martinez was on on February 9th, 2005? A. 117, 130. Q. What about Tom Gorski's usual route? A. Gorski's is 160 to 210. Q. But he wasn't there that day? A. Yes. He was not there, correct. Q. So you get a phone call from Cheryl

1		ATTE ALLEY				
2 Q. What time of day was this? 3 A. Approximately 4:00. 4 Q. Okay. And your response to her was 5 what? 6 A. To have Jose pick it up. 7 Q. Why Jose? 8 A. Because it's an excess route. It has 9 no pick-ups assigned to it. 11 that day? 12 A. Maybe a residential pick-up. But that 13 type of route is designed to take work off the other 14 routes when they're too heavy, does not have a 15 pick-up route, so when we have to disburse it, we 16 don't have to disburse pick-ups. 17 Q. When that route is not too heavy, is 18 that right? 19 A. Yes. 20 Q. Well, if it's 190 stops that he, in 21 fact, did that day, that's certaintly well within the 22 average of that route, right? 23 A. Correct. 24 Q. Is it on the high side of the average Page 130 1 of that route? 2 A. Yeah, High side. 3 Q. It's a full day, right? 4 A. Yeah, it is a full day. 5 Q. Okay. So you select Jose to go to 6 Bernina essentially, correct? 9 A. Correct. 10 Q. Okay. And you communicate that 11 decision to Cheryl Bast? 12 A. Pes. 13 Q. Okay. Mad you communicate that 14 decision to Cheryl Bast? 15 Q. Okay. Mat else is said in that 16 Q. Okay. Mat else is said in that 17 conversations? 18 A. She called me back and— 19 Q. How much time elapsed between these 20 two calls? 21 A. Ten minutes, 15 minutes. 22 Q. Okay. She calls you on the phone? 22 A. Pen minutes, 15 minutes. 23 Q. Okay. She calls you on the phone? 24 Q. Okay. She calls you on the phone? 25 Q. Okay. She calls you on the phone? 26 Q. So you ten to 15 minutes is your be	1	A.	Correct.	1	Α.	This is my cell phone.
A Approximately 4:00. 4 Q. Okay. And your response to her was what? 6 A. To have Jose pick it up. 7 Q. Why Jose? 8 A. Because it's an excess route. It has 9 no pick-ups assigned to it. 10 Q. Didn't he have another pick-up earlier 11 that day? 12 A. Maybe a residential pick-up. But that 13 type of route is designed to take work off the other 14 routes when they're too heavy, does not have a 15 pick-up route, so when we have to disburse pick-ups. 16 don't have to disburse pick-ups. 17 Q. When that route is not too heavy, is 18 that right? 19 A. Yes. 20 Q. Well, if it's 190 stops that he, in 21 fact, did that day, that's certainly well within the 22 average of that route, right? 23 A. Correct. 24 Q. Is it on the high side of the average 25 Page 130 1 of that route? 2 A. Yeah. High side. 3 Q. It's a full day, right? 4 A. Yeah, it is a full day, 5 Q. Okay. So you select Jose to go to 6 Bermina essentially, correct? 9 A. Correct. 9 C. What's your number? 1 A. At that point and seeing his truck 2 carlier, I found that hard to believe. So I said 3 send him to the pick-up now. I was on the rou 4 across the street. And is he has to go to 5 designed to take work off the other 10 don't have to disburse pick-ups. 11 A. At that point and seeing his truck 22 carlier, I found that hard to believe. So I said 3 send him to the pick-up now. I was on the rou 4 across the street. And is he sent him there and 1 5 was located to the pick-up on the stree 6 Q. So you had already gotten to 8 Bernina essentially, correct? 9 A. Correct. 9 A. Correct. 9 Q. Okay. And you communicate that 16 decision to Cheryl Bast? 17 A. Piss. 18 Q. Okay. What else is said in that 19 Q. Okay. Do you have any other 10 Q. Okay. Do you have any other 11 conversation? 12 A. Ten minutes, I5 minutes. 13 A. Ten minutes, I5 minutes. 14 A. No. 15 today? 16 A. Jeblieve so. 16 A. I believe so. 17 Q. Did you write them down at all that 18 day? 19 A. So, Sole alls you on the plono? 20 Q. So you ten to 15 minutes is your be	2	Q.	What time of day was this?	2	Q.	
4 Q. Okay. And your response to her was 5 what? 5 what? 6 A. To have Jose pick it up. 7 Q. Why Jose? 8 A. Because it's an excess route. It has 9 no pick-ups assigned to it. 10 Q. Didn't he have another pick-up earlier 11 that day? 11 that day? 12 A. Maybe a residential pick-up. But that 13 type of route is designed to take work off the other 14 routes when they're too heavy, does not have a 15 pick-up route, so when we have to disburse it, we 16 don't have to disburse pick-ups. 17 Q. When that route is not too heavy, is 18 that right? 19 A. Yes. 20 Q. Well, if it's 190 stops that he, in 21 fact, did that day, that's certainly well within the 22 average of that route, right? 21 A. Yeah, High side. 22 A. Yeah, High side. 3 Q. It's a full day, right? 4 A. Yeah, High side. 5 today? 6 A. Ibelieve so, Q. Do you still have the same number 18 that right? 10 A. My carrier is T-Mobile. I think it 11 was Voice Stream back then. I'm not positive. 12 switched. 13 Q. What's your number? 14 A. (330) 788-9478. 15 Q. Okay. So ten, 15 minutes later Cheryl calls back? 16 calls back? 17 A. Yes. 18 Q. And what does she say? 19 A. She said to me that Jose cannot get the pick-up and the claims be cannot get the pick-up and the claims be cannot get the pick-up and the pick-up and the building 25 until 9:00 o'clock. 24 Q. Is it on the high side of the average Page 130 1 of that route? 2 A. Yesh, High side. 3 Q. It's a full day, right? 4 A. Yesh, it is a full day. 5 Q. Okay. So you select Jose to go to 6 Bernina essentially, correct? 9 A. Correct. 10 Q. Okay. And you communicate that 11 decision to Cheryl Bast? 11 Q. Okay. What else is said in that 11 decision to Cheryl Bast? 12 A. That was the end of the conversation. Q. Okay. Do you have any other 12 conversations with Cheryl after that? 13 Q. How much time elapsed between these 12 A. No. 14 A. Ten minutes, 15 minutes. 15 today? 16 A. At that point and seeing his truck artier, 1 found that hard to believe. So I said sen him to the pick-up now. J was on the rou across the street. And	3	Å.	•	3	=	
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8 A. Because it's an excess route. It has 9 no pick-ups assigned to it. 10 Q. Didn't he have another pick-up earlier 11 that day? 12 A. Maybe a residential pick-up. But that 13 type of route is designed to take work off the other 14 routes when they're too heavy, does not have a 15 pick-up route, so when we have to disburse it, we 16 don't have to disburse pick-ups. 17 Q. When that route is not too heavy, is 18 that right? 19 A. Yes. 19 A. Yes. 10 Q. Well, if it's 190 stops that he, in 11 fact, did that day, that's certainty well within the 12 average of that route, right? 13 A. Correct. 14 A. Yeah, High side. 15 Q. Okay. So you select Jose to go to 16 Bernina essentially, correct? 17 A. Right. 18 Q. That's your decision, correct? 19 A. Correct. 20 Q. Okay. So you select Jose to go to 21 decision to Cheryl Bast? 22 A. Yes. 23 Q. Okay. Mad you communicate that id decision to Cheryl Bast? 24 Q. Okay. Do you have any other 25 A. That was the end of the conversation. 26 Q. Okay. Do you have any other 27 conversations with Cheryl after that? 28 A. She called me back and — 29 Q. How much time elapsed between these 20 two calls? 21 A. Ten minutes, 15 minutes. 22 Q. Okay. She calls you on the phone? 23 A. Ten minutes, 15 minutes. 24 Q. Do you tren to 15 minutes is your be	7	Ο.		7		·
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Q. Okay. She calls you on the phone? 22 Q. So your ten to 15 minutes is your be	i				=	
				!		
23 A. Yes. 23 estimate as you sit here today?	23	A.	Yes.	23	-	·
24 Q. Is this your cell phone? 24 A. Yes.						
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1	Q.	Same with the time that elapsed	I	point, if I mentioned dishonesty to him, but very
2	_	calls from Cheryl?	2	well could have. It was a dishonest act. It's in
3	A.	Yes.	3	the contract. I don't know. I don't recall words.
4	Q.	That's just your best estimate today?	4	And at that point I told him to make the pick-up,
5	Ã.	Best estimate based on our commitment	5	finish his work and get back into the building and
6		istomer and what time we had to be there.	6	went on.
7	Q.	But you have no other notes or	7	Q. Okay. Let's take those one at a time.
8	•	ts, you didn't document the times of any of	8	So about 20 packages is what you counted?
9		ents this day, correct?	9	A. Yes.
10	A,	No.	10	Q. Could have been a little more? Could
11	Q.	That's correct, right?	11	have been a little less actually?
12	Ā.	That's correct.	12	A. Yes.
13	Q.	Okay. So she calls you back, she	13	Q. Did you ask Jose at that time about
14	•	n sorry, I'm kind of going back a little	14	his you just heard from Cheryl this 60 package
15		t last telephone conversation with Cheryl	15	thing, right? You heard that through Cheryl Bast?
16		ose can't make the pick-up, 60 stops left.	115 116	A. Yes.
17		s that call end? What do you say to her?	17	Q. Jose never told you 60 packages
18	A.	I said send him there now.	18	A. No.
19	Q.	Okay.	19	
20	Q. A.	•	20	· · · · · · · · · · · · · · · · · · ·
21	him there		. 21	So did you then ask Jose did you say something about 60 packages to Jose?
22	Q.	And then you meet him there?	$\frac{21}{22}$	
23	A.	Yes.	23	A. I said where are the 60 stops you told Cheryl you had?
24	Q.	And what do you do when you meet him	$\frac{23}{24}$	
27	Q.	Page 134	Z#	Q. What does he say?
		1 486 134	<u> </u>	Page 136
1	there?		l I	A. i don't recall.
2	Α.	I had him open up his bulkhead door,	2	Q. Did he ever do anything to acknowledge
3	which is	the door behind the driver, and I counted	3	he, in fact, told her that?
4		iges in his car.	4	A. I don't recall.
5	Q.	You physically counted each and every	5	Q. So you don't know if he did or didn't?
6	package?	_	6	A. Correct.
7	A.	I counted like this (indicating). I	7	Q. Do you recall anything he says during
8	looked at	the shelf and counted like that,	8	this time that you're out there at the truck?
9	Q.	Okay. So you didn't go through each	9	A. No.
10	-	move it aside, one, two?	10	Q. Did you mention his accident or injury
11	Α.	Did not.	11	on February 9th when you were out there at his
12	Q.	Your standing by the driver's seat?	12	truck?
13	A.	I went into the bulk area.	13	A. I don't recall.
14	Q.	What's the bulk area?	14	Q. Did you say anything along the lines
15	À.	Went into the back of the package car.	15	of you lied to me about the accident and injury or
16	Q.	And you're counting with your finger?	16	back about the injury and now I don't believe you
17	À.	Yes.	17	with respect to this?
18	Q.	Okay. And what happens next?	18	A. No.
19	À.	I counted about 20 packages. I asked	19	Q. But you're not sure if you mentioned
20		re the 60 packages were, the 60 stops. 1	20	the injury at all?
21		y frustrations with him with everything	21	A. No. I wouldn't have.
22		in the area, a person getting hurt, a	22	Q. Well, why wouldn't you?
23		eeding help, we need to pitch together, this	23	A. It's a different issue.
24		I don't recall my exact words at that	24	Q. Well, you're out at the truck, you've
		Page 135	i	Page 137
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1	route earlier and gone home earlier?	1	Q. Well, you say that like maybe you've
2	A. Yeah. And just not done the extra	2	got some third or fourth party information. I mean,
3	work.	3	do you have any information at all that this man had
4	Q. So he would have gotten out of some	4	ever done anything to avoid work?
5	work?	5	A. No.
6	A. Correct.	6	MR. COFFEY: Let me show what we'll
7	Q. Now, we saw in one of the exhibits,	7	mark as Exhibit 7.
8	Exhibit 4, I know it has the date, but assuming that	8	(Document marked as
9	this is February 9th, 2005, and this is	9	Ziltz Exhibit No. 7
10	representative of what this man did in the day,	10	for identification,
11	we've seen that he didn't clock out until 8:00. So	11	07/26/07.)
12	he didn't get home very early then, did he?	12	BY MR. COFFEY:
13	A. No.	13	Q. Exhibit 7 is numerous sheets. They
14	Q. So what would this have saved him? He	14	all start with the heading Single Extension Search
15	ended up doing the Bernina work, right?	15	for ILADD extension, and then the first sheet has
16	A. Correct.	16	extension 2122 and then there's different extensions
17	Q. What would he have gotten out of it if	17	on the rest of them. Have you seen these particular
18	he didn't do the Bernina work, 15 minutes of time?	18	documents before?
19	MR. WATSON: Objection, asked and	19	A. Yes.
20	answered.	20	Q. When have you seen these particular
21	BY MR. COFFEY:	21	documents?
22	Q. What would he have gained?	22	A. Two days ago with my attorney.
23	A. Probably over an hour of getting done	23	Q. Okay. Prior to that, had you seen
24	earlier.	24	these particular documents before?
	Page 170		Page 172
		ļ <u></u> -	,
1	Q. So he wouldn't have been done until	1	A. No.
2	9:00 then?	2	Q. Do you know what they represent? Do
3	A. No. Would have been done earlier	3	you know what they're supposed to show me or us?
4	without doing the work. I would assume with 20-some	4	A. It looks like the phone calls and
5	stops left in that area, that's average on that	5	times
6	route, 19, 22 stops an hour by various drivers, that	6	Q. Do you know
′	would have been an hour's worth of work at 4:00,	7	A. — throughout the building.
8	So Q. He's getting paid for this work,	8	Q. Do you know where extension 2122 is in
10	Q. He's getting paid for this work, correct?	9	the Aurora center?
11	A. Correct.	10	A. No.
12	Q. And this would have been an hour of	11	Q. Do you know if it is in the Aurora
13	overtime, right?	12	center? A. I don't know.
14	A. Yes.	!	· ·
15	Q. Okay. And he's getting paid	14	`
16	time-and-a-half?	15 16	A. No. I don't know.
17	A. Ub-huh.	17	Q. Same question: Whether it's somewhere in the Aurora center, if you know
18	Q. So he's jipping himself out of that	18	A. No.
19	money, correct?	19	Q or whether it's anywhere in the
20	A. Uh-huh.	20	building?
21	Q. Had you ever, prior to February 9th,	21	A. I don't think they are.
22	2005, known Mr. Andreu to try to skimp out of work,	22	Q. You don't think they're Aurora center
23	cut work early, leave work early, anything?	23	extensions, correct?
24	A. No, I have not.	24	A. Correct.
-	Page 171		Page 173
	1 450 171		1 agc 175

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1	Q. And this is back on February 9th,	1	would guess that would be a.m., right?
2	2005? That's the date, sir?	2	A. Yeah.
3	A. Yes.	3	Q. Do you have a recollection of making a
4	Q. So at that date you don't think 2122	4	call in or receiving a call from extension 2488 at
5	or 2123 were Aurora center extensions?	5	6:40 on February 9th, 2005?
6	A. Correct. They are not.	6	A. I don't recall. 2488 is the manager's
7	Q. Including the office where Cheryl Bast	7	office, which rings to all the offices if no one
8	works?	8	answers. So that would have been at that time
9	A. Including the office.	9	Kerry's office, I believe.
10	Q. What about 2136?	10	Q. Do you have any recollection of a call
11	A. Yes.	11	that lasted a minute well, I'm not sure how to
12	Q. What is 2136?	12	read these times, but it looks like a minute and
13	A. That is one of the extensions to our	13	five seconds?
14	office.	14	A. No.
15	Q. Which office? The office where Cheryl	15	Q. Any calls?
16	works?	16	A. No, I don't recall.
17	A. All of them. They all have the same	17	Q. Do you see your number anywhere else
18	extension they have several extensions on the	18	on these sheets?
19	phone, they ring and light up.	19	A. Again at 6:40 down a little bit. And
20	Q. Okay. Where is the phone at? Where	20	that's the only two I do see.
21	does this extension come into? Which office?	21	Q. I guess the question stands: Any
22	A. All of them.	22	information or knowledge that any of the numbers
23	Q. How many offices do we have?	23	that we see on these sheets is relevant to this case
24	A. One, two, three, four.	í 24	or Mr. Andreu's claim in some fashion?
	Page 174		Page 176
1	Q. Okay. So you believe 2136 on	1	A. No. I don't know.
2	February 9th, 2005, to be a good extension that came	2	Q. Did you have any discussions with
3	into and would ring at the Aurora center?	3	anybody other than your attorney concerning calls
4	A. I believe so.	4	into various extensions on February 9th, 2005, as it
5	Q. Do you see anything on Page 549	5	relates to Mr. Andreu's claims?
6	that's the number on the bottom there. I mean, do	6	A. No.
7	you recognize any of these source numbers? Do you	7	Q. Or the events of February 9th, 2005,
8	know what the source number column represents?	8.	that we've talked about with respect to Mr. Andreu?
9	 A. Incoming phone call maybe, or a phone 	9	A. No.
10	number, I mean.	10	Q. Anything else that you can see feels
11	Q. I don't know. Are you guessing?	, 11	important or relevant with respect to Exhibit No. 7?
12	 They look like phone numbers. 	12	A. No.
13	Q. Okay. They look like phone numbers.	13	(Brief pause.)
14	Are you guessing whether they're incoming?	14	BY MR. COFFEY:
15	A. Guessing.	15	Q. Whose decision was it to terminate
16	Q. Okay. Do you have any information	16	Mr. Andreu's employment?
17	about these documents that you think is relevant to	17	 From my understanding, it was due to a
18	this case? Any of the pages?	18	grievance not being presented.
19	 My number is on here in one spot, 	19	Q. What was due to a grievance not being
20	Q. Where is that at?	20	presented?
21	A. It's 552. It's on the top line.	21	 A. They have a certain period of time,
22	Q. Okay. (630) 788	22	15 days I believe, the union, when anybody is being
23	A. 9478.	23	disciplined to present a grievance which to
24	Q. At 6:40. Do you know if that's - I	24	reduce the discipline to what have you.
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23

24

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Have you been involved in any charges against any of

your employees or any employees out of the Aurora

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23

And you called Mr. Dill on the phone?

I had him call the office, yes.

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1	center of sexual harassment?	1	building.
2	A. No.	2	Q. It wasn't directed just at you?
3	Q. Subparagraph I is fighting. Have you	3	A. No.
4	been involved in or have knowledge of any instances	4	Q. Mr. Ziltz, you were asked some
5	where an employee out of the Aurora center was	5	questions about delivery records being archived to a
6	charged with fighting?	, - 6	disk. Do you recall that?
7	A. No.	7	A. Yes.
8	Q. Did Mr. Snyder ever indicate to you or	8	Q. And that the disk was by the computer
9	tell you that Mr. Andreu had admitted to lying – to	9	I thought you said in the supervisor's office?
10	saying this to the lie that he is accused of?	10	A. The middle office. It's the DIAD room
111	A. No.	11	we call it.
12	MR. COFFEY: I don't have anything	12	Q. Do you know how far back those
13	further.	13	archives go?
14	MR. WATSON: I have a few questions	14	A. I'm not involved with it. The same
1	but we're going to take a couple minutes.	i	
15 16	* *	15	disk is used over and over to basically delete the
	(Whereupon, after a short	16	information off of that computer there.
17	break was had, the	17	Q. The disk is overridden?
18	following proceedings	18	A. Overridden.
19	were held accordingly.)	19	Q. Is that what John Coker does?
20	MR. WATSON: Mr. Ziltz, I have really	20	A. No. I believe Cheryl does that.
21	just a few questions.	21	Q. Cheryl Bast?
22	CROSS EXAMINATION	22	A. Yes.
23	By Mr. Watson	23	Q. But there's a certain number of disks,
24	Q. I thought it was a bit unclear when	24	however many it is, and those disks are written over
	Page 194		Page 196
	, , , , , , , , , , , , , , , , , , ,	 	
1	Mr. Coffey was asking you about your dates of	1	and over?
1 2		1 2	
	Mr. Coffey was asking you about your dates of	1 -	and over?
2	Mr. Coffey was asking you about your dates of employment and exactly when you started in the	2	and over? A. The system can hold visually in front
2 3	Mr. Coffey was asking you about your dates of employment and exactly when you started in the Aurora center the second time around after you had	2	and over? A. The system can hold visually in front of you I think two weeks of dates showing. Once it
2 3 4	Mr. Coffey was asking you about your dates of employment and exactly when you started in the Aurora center the second time around after you had been in business development and things. Do you	2 3 4	and over? A. The system can hold visually in front of you I think two weeks of dates showing. Once it reaches that point, some have to be wiped out to make room for the current weeks you're in.
2 3 4 5	Mr. Coffey was asking you about your dates of employment and exactly when you started in the Aurora center the second time around after you had been in business development and things. Do you remember when that was? A. Peak 2004.	2 3 4 5	and over? A. The system can hold visually in front of you I think two weeks of dates showing. Once it reaches that point, some have to be wiped out to
2 3 4 5 6	Mr. Coffey was asking you about your dates of employment and exactly when you started in the Aurora center the second time around after you had been in business development and things. Do you remember when that was? A. Peak 2004. Q. So	2 3 4 5 6	and over? A. The system can hold visually in front of you I think two weeks of dates showing. Once it reaches that point, some have to be wiped out to make room for the current weeks you're in. MR. WATSON: I don't have anything
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Quality **Performance** Review

David Ziltz 0108660

Management Level: FT Supervisor

Appraisal Period: 01/01/2005 - 12/31/2005

Approved By: Kerry Snyder

Mid-Year Review Final Close 02/11/2006

<u>tynaturęs</u>			

Date Employee Immediate Manager Date Date Next Level Manager

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7/10/2007

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Performance Goals and Results

- David Ziltz 's Goals and Results (Appraisal Period: 01/01/2005 -12/31/2005) =

How Measured	WGT (%)	Base	Goal	Hi/Lo	Result	Val	WT Val
1/per frequency	10	667	800	High	752	0.94	9.40
1/per frequency	5	2127	2300	High	2928	1.20	6.00
1/per frequency	5	3116	3336	High	3966	1.19	5.94
	1/per frequency 1/per frequency	1/per frequency 10 1/per frequency 5	1/per frequency	How Measured (%) Base Goal 1/per frequency 10 667 800 1/per frequency 5 2127 2300	How Measured (%) Base Goal HI/Lo 1/per frequency 10 667 800 High 1/per frequency 5 2127 2300 High	1/per frequency 10 667 800 High 752 1/per frequency 5 2127 2300 High 2928	How Measured (%) Base Goal HI/Lo Result Val 1/per frequency 10 667 800 High 752 0.94 1/per frequency 5 2127 2300 High 2928 1.20

People, Innovation & Learning (20%) UNWT WGT WT Hì/Lo Resuit Goals/Measures **How Measured** Base Goal (%) Val Val Employee Relations Index 77 78 60 0.00 0.00 ERI survey results 10 High Auto Frequency 19.1 13.2 24.9 0.00 00.0 Frequency Rating Low 5 10.0 Dart Frequency Frequency Rating 13.2 Low 13.1 0.76 3.82 People, Innovation & Learning Score 3.82

	(%)	Base	Goal	Hi/Lo	Result	Val	WT Val
Statement	10	1.8	1.8	Low	1.6	1.11	11.06
Statement	10	106000	78000	Low	57000	1.20	12.00
	Statement Statement					Statement 10 106000 78000 Low 57000	

Internal Business Process (20%) WGT UNWT WT Hi/Lo Goals/Measures **How Measured** Base Goal Result (%) Val Val NDPPH PKG Results 27.6 27.8 High | 27.9 5.01 5. 1.00 NPUPPH 20.4 5.16 PKG Results 19.7 High | 21.1 1.03 Package Visibility Total Frequency 10 72 100 High 64 0.00 0.00Internal Business Process Score 10.17

Weighted QPR Score (w/out Critical Skills): 58.40
2005 QPR Score: 58.40
Critical Skills Score 18.91
2005 Final Score 77.31

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Change History

David Ziitz 's Change History (Appraisal Period: 01/01/2005 -12/31/2005)								
Changed By	Action	Date Changed	Change Reason	Perspective	Change Detail			
	*** No Change History Available ***							
180 111								

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Development Plan

Filed 01/31/2008

- David Zlitz 's Development Plan (Appraisal Period: 01/01/2005 - 12/31/2005) -

Development Activity P	rimary Resource	Due Date	How Measured	Progress	Done
				1149.44-	DO::-E
Review critical skills with immediate manager		01/12/2006	Verbai Feedback	REV ON 1/12/06	No

Job Specific Skills					
Development Activity	Primary Resource	Due Date	How Measured	Progress	Done
Attend Supervisor Leadership School		01/12/2006	Course Completion	SLS IS SCHEDULED 2/13/06	No

г	-Business Acumen					
1	Development Activity	Primary Resource	Due Date	How Measured	Progress	Done
ı	*	** There are no activities associ	ated with this de	velopment area ***		

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Critical Skills Raters

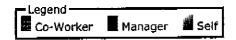
Name	Relationship
POPE, TIMOTHY	Co-Worker
SUWANSKI, MARC	Co-Worker
SNYDER, KERRY	Immediate Manager

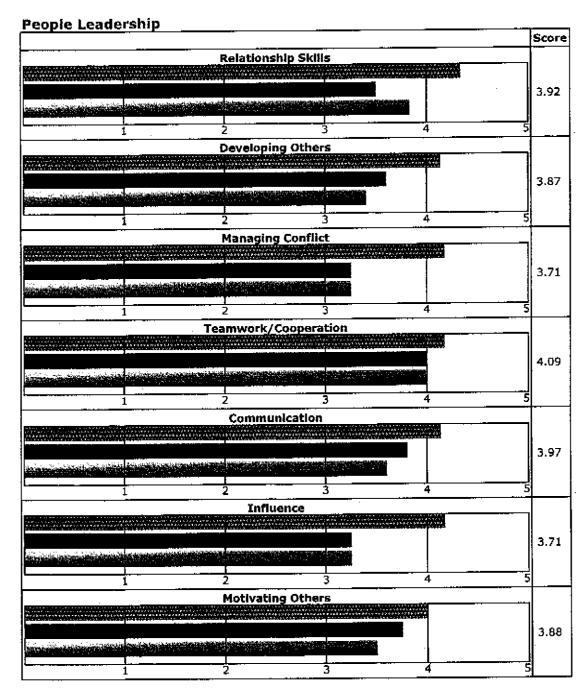
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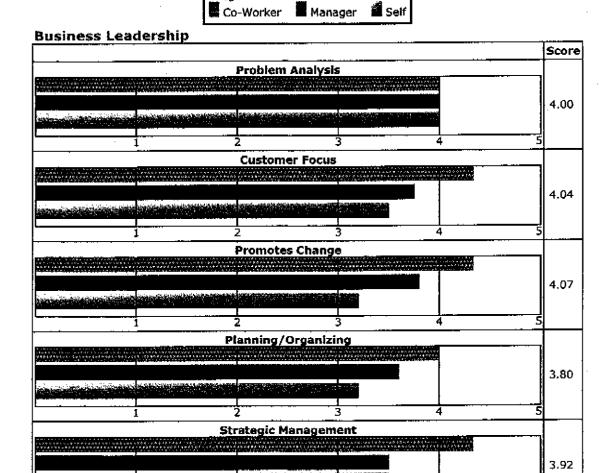
Critical Skills Leadership Factor Results



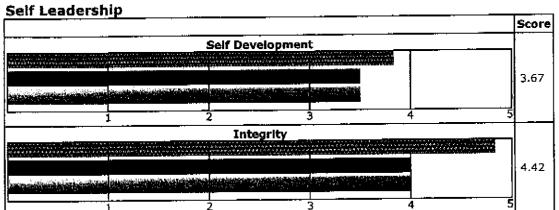


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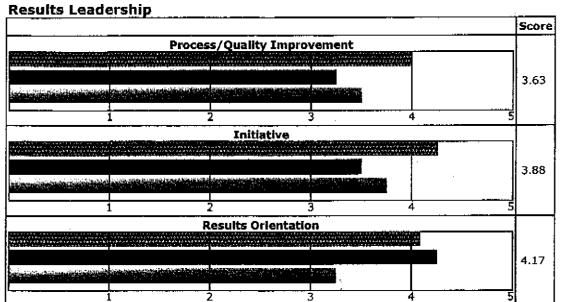






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Critical Skills Leadership Factor Results

People Leadership

Case 1:07-cv-06<u>13</u>2

Leadership Factor	Self	Manager	Co-Worker	Score
Relationship Skills	3.83	3.50	4.33	3.92
Developing Others	3.40	3.60	4.13	3.87
Managing Conflict	3.25	3.25	4.17	3.71
Teamwork/Cooperation	4,00	4.00	4.17	4.09
Communication	3.60	3.80	4.13	3.97
Influence	3.25	3.25	4.17	3.71
Motivating Others	3.50	3.75	4.00	3.88
		People Lead	lership Score	3.88

Leadership Factor	Self	Manager	Co-Worker	Score
Problem Analysis	4.00	4.00	4.00	4.00
Customer Focus	3.50	3.75	4.33	4.04
Promotes Change	3.20	3.80	4.33	4.07
Planning/Organizing	3.20	3.60	4.00	3.80
Strategic Management	3.50	3.50	4.33	3.92
		Susiness Lead	lership Score	3.96

Self Leadership

Leadership Factor	Self	Manager	Co-Worker	Score			
Self Development	3.50	3.50	3.83	3.67			
Integrity	4.00	4.00	4.83	4.42			
Self Leadership Score 4.04							

Results Leadership

Leadership Factor	Self	Manager	Co-Worker	Score
Process/Quality Improvement	3.50	3.25	4.00	3.63
Initiative	3.75	3.50	4.25	3.88
Results Orientation	3.25	4.25	4.08	4.17
· · · · · · · · · · · · · · · · · · ·		Results Lead	lership Score	3.89

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Critical Skills Feedback

Hidden Talents - skills or competencies where others rated you higher than you rated yourself.

Manager(s) Perspective	Leadership Factor	Self	Manager	Co-Worker	Score	Gap
Results Leadership	Results Orientation	3.25	4.25	4.08	4.25	1.00
Business Leadership	Promotes Change	3.20	3.80	4.33	3.80	0.60
Business Leadership	Planning/Organizing	3.20	3.60	4.00	3.60	0.40
Co-Worker Perspective	Leadership Factor	Self	Manager	Co-Worker	Score	Gap
Business Leadership	Promotes Change	3.20	3.80	4.33	4.33	1.13
People Leadership	Managing Conflict	3.25	3.25	4.17	4.17	0.92
People Leadership	Influence	3.25	3.25	4,17	4.17	0.92

Manager(s) Perspective	Leadership Factor	Self	Manager	Co-Worker	Score	Gap
People Leadership	Relationship Skills	3.83	3.50	4.33	3.50	0.33
Results Leadership	Initiative	3.75	3.50	4.25		0.25
Results Leadership	Process/Quality Improvement	3.50	3.25	4.00	3.25	0.25
Co-Worker Perspective	Leadership Factor	Self	Manager	Co-Worker	Score	Gap

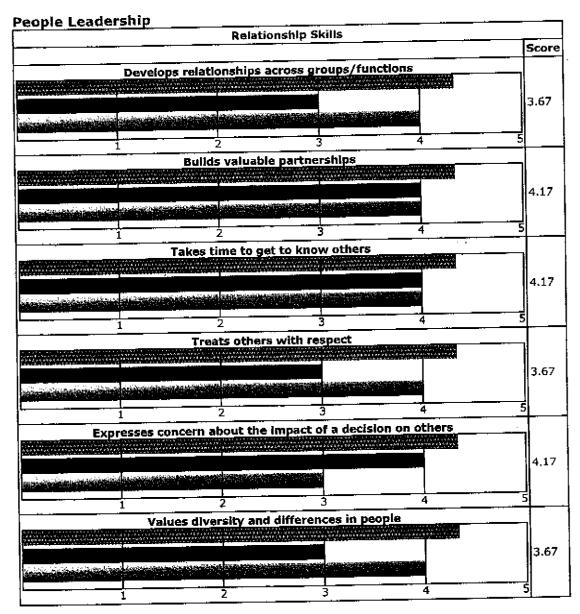
Manager(s) Perspective	Leadership Factor	Self	Manager	Co-Worker	Score
Results Leadership	Results Orientation	3.25	4.25	4.08	4.25
People Leadership	Teamwork/Cooperation	4.00	4.00	4.17	4.00
Business Leadership	Problem Analysis	4.00	4.00	4.00	4.00
Co-Worker Perspective	Leadership Factor	Self	Manager	Co-Worker	Score
Self Leadership	Integrity	4.00	4.00	4.83	4.83
People Leadership	Relationship Skills	3.83	3.50	4.33	4.33
Business Leadership	Customer Focus	3.50	3.75	4.33	4.33

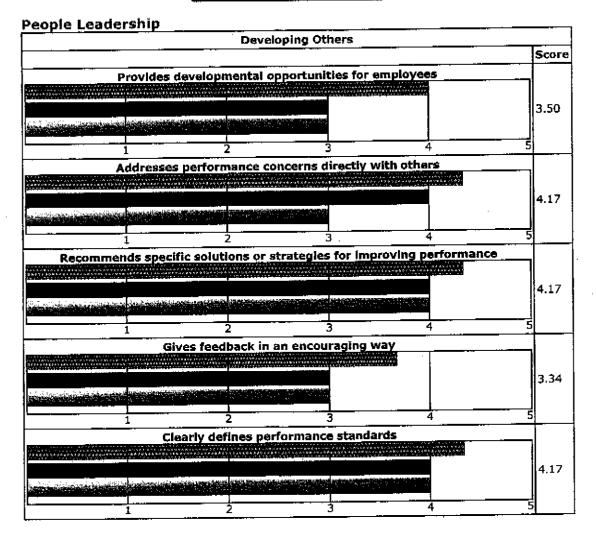
Development Opportunities - skills or competencies for which you received the lowest scores.

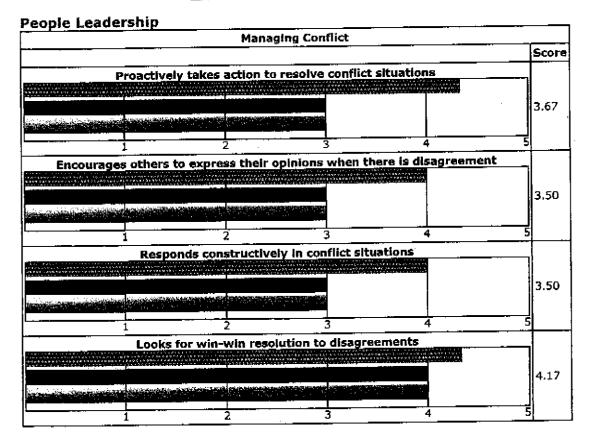
Manager(s) Perspective	Leadership Factor	Self	Manager	Co-Worker	Score
People Leadership	Managing Conflict	3.25	3.25	4.17	3.25
People Leadership	Influence	3.25	3.25	4.17	3.25
Results Leadership	Process/Quality Improvement	3.50	3.25	4.00	3.25
Co-Worker Perspective	Leadership Factor	Self	Manager	Co-Worker	Score
Self Leadership	Self Development	3.50	3.50	3.83	3.83
People Leadership	Motivating Others	3.50	3.75	4.00	4.00
		4.00	4.00	4.00	4.00

Critical Skills Behavior Results

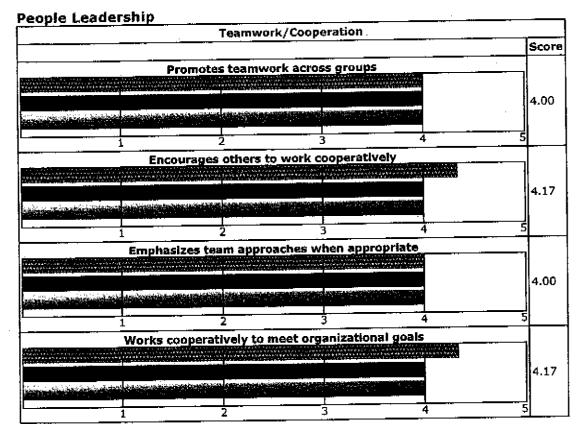




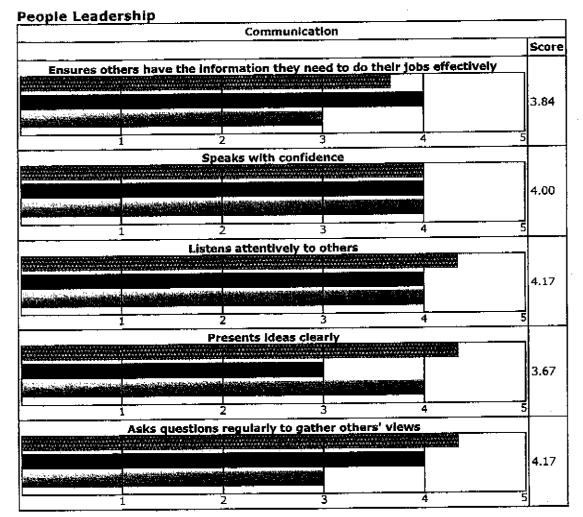


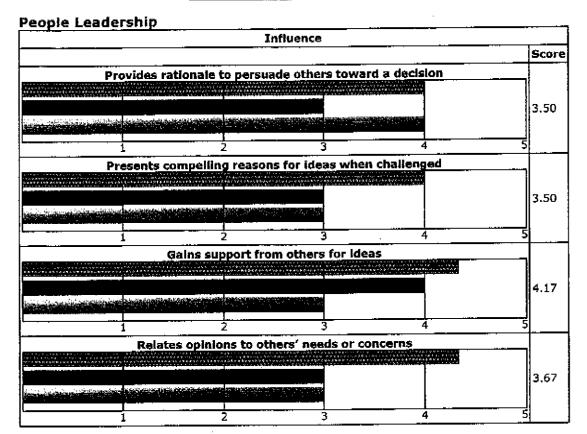


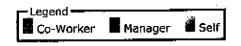


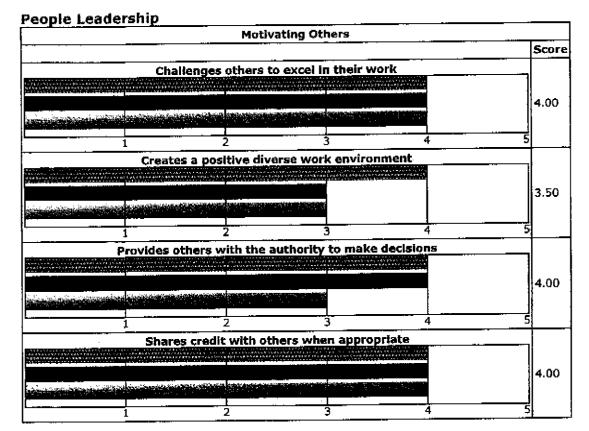








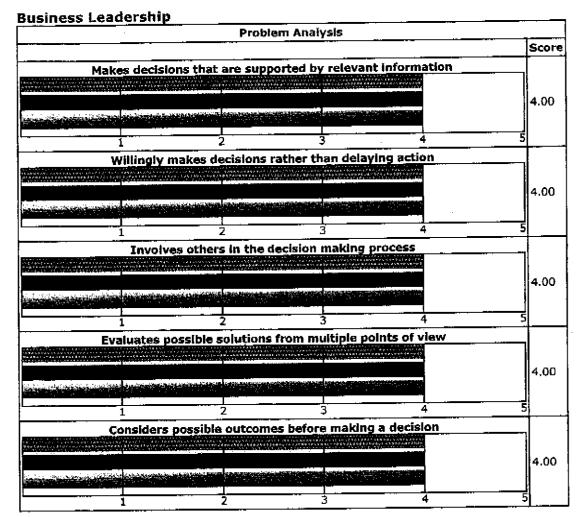




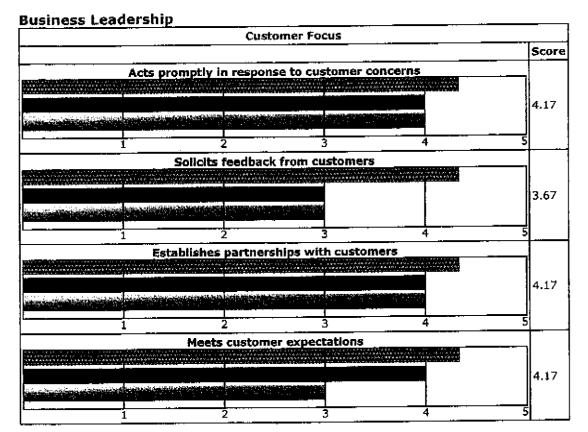
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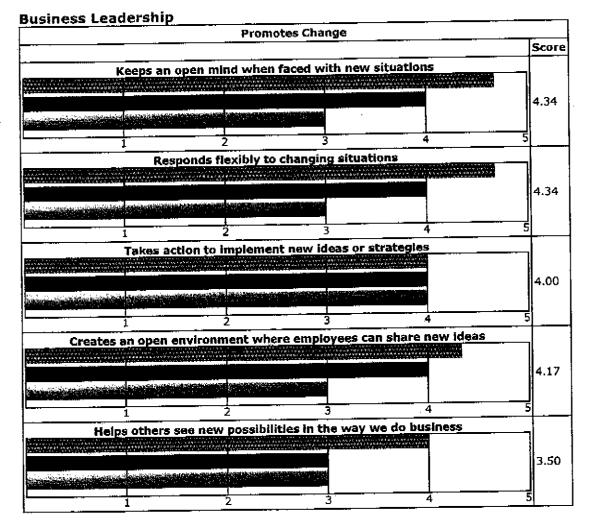


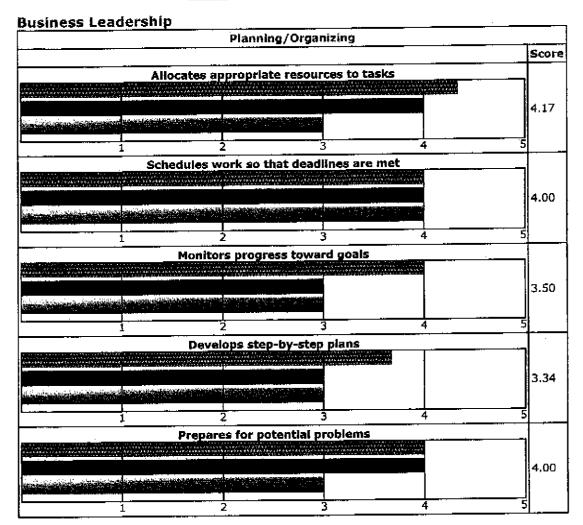






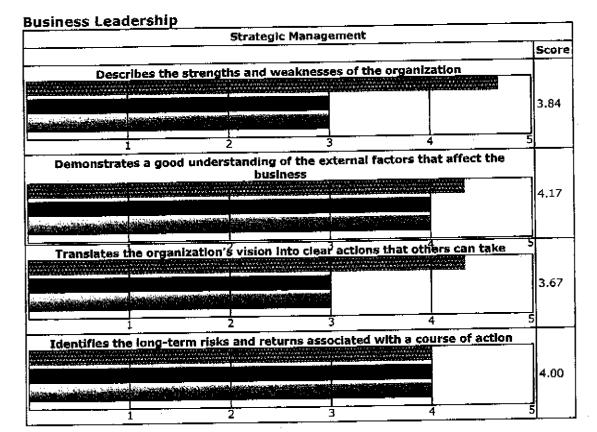




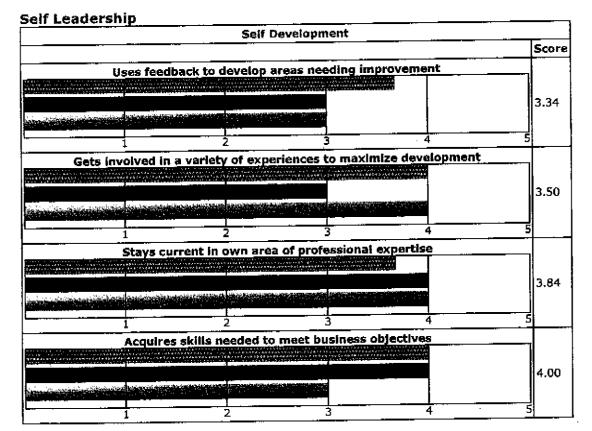


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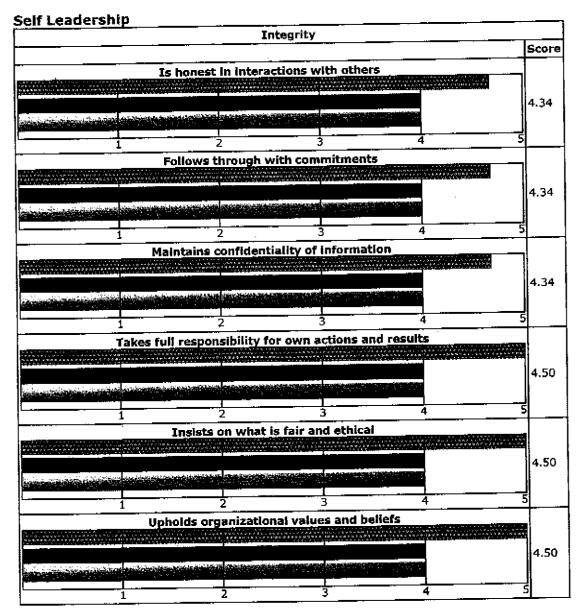




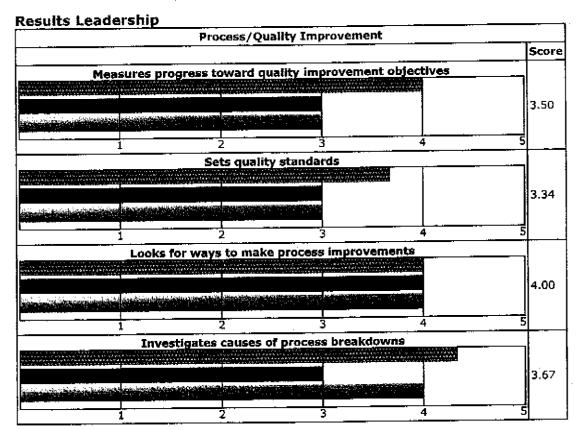


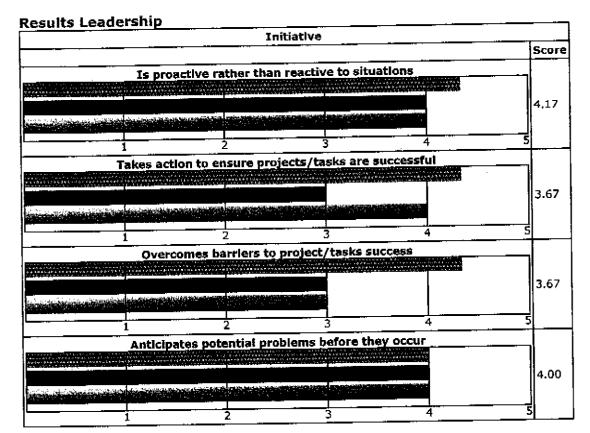


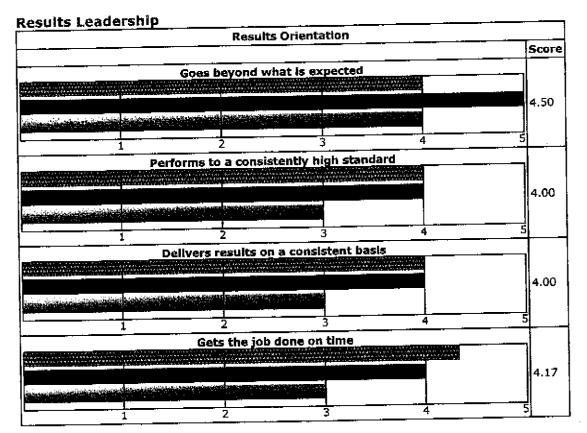




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Critical Skills Behavior Results

People Leadership

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hip Skills			Confide
Self	Manager	Co-Worker	Score
4.00	3.00	4.33	3.67
4.00	4.00	4.33	4.17
4.00	4.00	4.33	4.17
4.00	3.00	4.33	3.67
3.00	4.00	4.33	4.17
4.00	3.00	4.33	3.67
g Others			
Self	Manager	Co-Worker	Score
3.00	3.00	4.00	3.50
3.00	4.00	4.33	4.17
	4.00	4,33	4.17
3.00	3.00	3.67	3.34
4.00	4.00	4.33	4.17
	1		
	Manager	Co-Worker	Score
		4.33	3.67
3.00	3.00	4.00	3.50
2.00	3.00	4 00	3.50
			4.17
		14.00	
		Co-Worker	Score
			4.00
			4.17
			4.00
			4.17
	14.00	14.55	<u> </u>
	Manager	Co-Worker	Score
3.00	4.00	3.67	3.84
4.00	4.00	4.00	4.00
			4.17
			3.67
			4.17
<u> </u>			1
Self	Manager	Couldorker	Score
ı əcu	Lionatei	An-AARI Wes	
4.00	3.00	4.00	3.50
			3.50 3.50
4.00	3.00	4.00	<u> </u>
4.00 3.00	3.00	4.00	3.50
4.00 3.00 3.00 3.00	3.00 3.00 4.00	4.00 4.00 4.33	3.50 4.17
4.00 3.00 3.00 3.00 3.00 others	3.00 3.00 4.00 3.00	4.00 4.00 4.33	3.50 4.17 3.67
4.00 3.00 3.00 3.00 ng Others Self	3.00 3.00 4.00 3.00 Manager	4.00 4.00 4.33 4.33	3.50 4.17 3.67
4.00 3.00 3.00 3.00 3.00 others	3.00 3.00 4.00 3.00	4.00 4.00 4.33 4.33	3.50 4.17 3.67 Score
	\$elf 4.00 4.00 4.00 4.00 3.00 4.00 3.00 3.00	Self Manager 4.00 3.00 4.00 4.00 4.00 3.00 3.00 3.00 4.00 3.00 3.00 3.00 3.00 3.00 3.00 3.00 4.00 4.00 3.00 3.00 3.00 3.00 3.00 3.00 3.00 3.00 3.00 3.00 3.00 3.00 3.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00 4.00	Self Manager Co-Worker 4.00 3.00 4.33 4.00 4.00 4.33 4.00 3.00 4.33 3.00 4.00 4.33 4.00 3.00 4.33 4.00 3.00 4.33 3.00 3.00 4.00 3.00 4.00 4.33 3.00 3.00 3.67 4.00 4.00 4.33 3.00 3.00 3.67 4.00 4.00 4.33 3.00 3.00 4.00 3.00 3.00 4.00 3.00 3.00 4.00 3.00 3.00 4.00 4.00 4.00 4.33 Cooperation Self Manager Co-Worker 4.00 4.00 4.33 4.00 4.00 4.33 4.00 4.00 4.33 4.00 4.00 4.33 4.00 4

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Shares credit with others when appropriate

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4.00

4.00

4.00

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Business Leadership

Problem	Analysis			
Behavior	Self	Manager	Co-Worker	Score
Makes decisions that are supported by relevant information	4.00	4.00	4.00	4.00
Willingly makes decisions rather than delaying action	4.00	4.00	4.00	4.00
Involves others in the decision making process	4.00	4.00	4.00	4.00
Evaluates possible solutions from multiple points of view	4.00	4.00	4.00	4.00
Considers possible outcomes before making a decision	4.00	4.00	4.00	4.00
Custom	er Focus			
Behavior	Self	Manager	Co-Worker	Score
Acts promptly in response to customer concerns	4.00	4.00	4.33	4.17
Solicits feedback from customers	3.00	3.00	4.33	3.67
Establishes partnerships with customers	4.00	4.00	4.33	4.17
Meets customer expectations	3.00	4.00	4.33	4.17
Promote	s Change			
Behavior	Self	Manager	Co-Worker	Score
Keeps an open mind when faced with new situations	3.00	4.00	4.67	4.34
Responds flexibly to changing situations	3.00	4.00	4.67	4,34
Takes action to implement new ideas or strategies	4.00	4.00	4,00	4.00
Creates an open environment where employees can share new ideas	3.00	4.00	4.33	4.17
Helps others see new possibilities in the way we do business	3.00	3.00	4.00	3.50
Planning/	Organizing			
Behavior	5elf	Manager	Co-Worker	Score
Allocates appropriate resources to tasks	3.00	4.00	4.33	4.17
Schedules work so that deadlines are met	4.00	4.00	4.00	4.00
Monitors progress toward goals	3.00	3.00	4.00	3.50
Develops step-by-step plans	3.00	3.00	3.67	3.34
Prepares for potential problems	3.00	4.00	4.00	4.00
Strategic M	lanagemen	t		
Behavior	Self	Manager	Co-Worker	Score
Describes the strengths and weaknesses of the organization	3.00	3.00	4.67	3.84
Demonstrates a good understanding of the external factors that affect the business	4.00	4.00	4.33	4.17
Translates the organization's vision into clear actions that others can take	3.00	3.00	4.33	3.67
Identifies the long-term risks and returns associated with a course of action	4.00	4.00	4.00	4.00

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Self Leadership Self Development Self Co-Worker Score Manager Behavior Uses feedback to develop areas needing 3.34 3.00 3.67 3.00 improvement Gets involved in a variety of experiences to 4.00 3.50 3.00 4.00 maximize development 4.00 3.67 3.84 Stays current in own area of professional expertise 4.00 4.00 4.00 4.00 3.00 Acquires skills needed to meet business objectives

Integrity						
Behavior	Self	Manager	Co-Worker	Score		
Is honest in interactions with others	4.00	4.00	4.67	4.34		
Follows through with commitments	4.00	4.00	4.67	4.34		
Maintains confidentiality of information	4.00	4.00	4.67	4.34		
Takes full responsibility for own actions and results	4.00	4.00	5.00	4.50		
Insists on what is fair and ethical	4.00	4.00	5.00	4.50		
Upholds organizational values and beliefs	4.00	4.00	5.00	4.50		



Process/Qualit	y Improvei	nent		
Behavior	Self	Manager	Co-Worker	Score
Measures progress toward quality Improvement objectives	3.00	3.00	4.00	3.50
Sets quality standards	3.00	3.00	3.67	3.34
Looks for ways to make process improvements	4.00	4.00	4.00	4.00
Investigates causes of process breakdowns	4.00	3.00	4.33	3.67
Initi	ative			
Behavior	Self	Manager	Co-Worker	Score
Is proactive rather than reactive to situations	4.00	4.00	4.33	4.17
Takes action to ensure projects/tasks are successful	4.00	3.00	4.33	3.67
Overcomes barriers to project/tasks success	3.00	3.00	4.33	3.67
Anticipates potential problems before they occur	4.00	4.00	4.00	4.00
Results C	rientation			
Behavior	Self	Manager	Co-Worker	Score
Goes beyond what is expected	4.00	5.00	4.00	4.50
Performs to a consistently high standard	3.00	4.00	4.00	4.00
Delivers results on a consistent basis	3.00	4.00	4.00	4.00
Gets the job done on time	3.00	4.00	4.33	4.17

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